

110TH CONGRESS  
1ST SESSION

# H. R. 4192

To reform immigration to serve the national interest.

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 15, 2007

Mr. TANCREDO introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on Armed Services, Homeland Security, Oversight and Government Reform, Ways and Means, Education and Labor, Foreign Affairs, and Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To reform immigration to serve the national interest.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE; TABLE OF CONTENTS; DEFINI-**  
4       **TIONS.**

5       (a) SHORT TITLE.—This Act may be cited as the  
6       “Optimizing Visa Entry Rules and Demanding Uniform  
7       Enforcement Immigration Reform Act of 2007” or the  
8       “OVERDUE Immigration Reform Act of 2007”.

1           (b) TABLE OF CONTENTS.—The table of contents of  
2 this Act is as follows:

Sec. 1. Short title; table of contents; definitions.

TITLE I—OPTIMIZING VISA ENTRY RULES

Sec. 101. Worldwide levels of immigration.

Sec. 102. Allotment of visas.

Sec. 103. Humanitarian immigration.

Sec. 104. Sunsetting adjustments under various provisions.

Sec. 105. Requirement for Congressional approval for extension of designation of foreign states for purposes of temporary protected status.

Sec. 106. Establishment of new nonimmigrant classifications; conversion of certain existing immigrant classification petitions.

TITLE II—MISCELLANEOUS PROVISIONS

Sec. 201. Limitation on automatic birthright citizenship.

Sec. 202. Requirement for immigrants to provide affidavit of allegiance to the United States.

Sec. 203. Requirement of affidavit of support for employment-based immigrants.

Sec. 204. Making voting in foreign election a basis for automatic loss of citizenship.

Sec. 205. Treating illegal presence in the United States as not demonstrating good moral character.

Sec. 206. Requirement of DNA testing for aliens seeking visas based on a biological relationship.

TITLE III—DEMANDING UNIFORM ENFORCEMENT

Subtitle A—No Access; No Opportunity

Sec. 301. Sense of Congress on role of Department of Defense.

Sec. 302. Use of Army and Air Force to secure the borders.

Sec. 303. Assignment of members of the Armed Forces to assist United States Customs and Border Protection and United States Immigration and Customs Enforcement.

Sec. 304. Construction of secure fence.

Sec. 305. Report by Sandia National Laboratories concerning border security.

Sec. 306. Increase in full-time USCBP immigration inspectors.

Sec. 307. Increase in full-time USICE detention and removal officers.

Sec. 308. Functions of detention and removal officers.

Sec. 309. Increase in USICE criminal investigators for benefits fraud.

Sec. 310. Increase in attorneys for the USICE legal program.

Sec. 311. Suspension of visa waiver program.

Sec. 312. Civil and criminal penalties for unlawful presence.

Sec. 313. Listing of immigration violators in the National Crime Information Center Database.

Sec. 314. Civil and criminal penalties for document fraud, benefit fraud, and false claims of citizenship.

Sec. 315. Identification standard for Federal benefits.

Sec. 316. Fingerprinting of applicants for United States passports.

Sec. 317. Visa term compliance bonds.

- Sec. 318. Release of aliens in removal proceedings.
- Sec. 319. Detention of aliens delivered by bondsmen.
- Sec. 320. Independent verification of birth records provided in support of applications for social security account numbers.
- Sec. 321. Birth certificates.
- Sec. 322. Maximum period of validity for State licenses and identification documents.
- Sec. 323. No preemption of certain State and local laws regarding employment eligibility verification requirements.

#### Subtitle B—Reversing Unlawful Migration

- Sec. 331. Mandatory employment authorization verification.
- Sec. 332. Employer sanctions.
- Sec. 333. Limited duration social security account numbers for nonimmigrants.
- Sec. 334. Mandatory notification of social security account number mismatches and multiple uses.
- Sec. 335. No social security credit for work performed while unlawfully present.
- Sec. 336. Reducing individual taxpayer identification number abuse.
- Sec. 337. Limited eligibility for tax credits and refunds.
- Sec. 338. Penalty for failure to file correct information returns.
- Sec. 339. Adjustment of status.
- Sec. 340. Revocation of temporary status.
- Sec. 341. Repeal of amnesty provision.
- Sec. 342. Penalties for violations of Federal immigration laws by States and localities.
- Sec. 343. Clarification of inherent authority of State and local law enforcement.
- Sec. 344. USICE response to requests for assistance from State and local law enforcement.
- Sec. 345. Basic immigration enforcement training for State, local, and tribal law enforcement officers.
- Sec. 346. Completion of exit component of US-VISIT entry and exit data system.
- Sec. 347. Clarification that wages paid to unauthorized aliens may not be deducted from gross income.

#### TITLE IV—REVISION OF FEDERAL REIMBURSEMENT OF EMERGENCY HEALTH CARE SERVICES FURNISHED TO ILLEGAL ALIENS

- Sec. 401. Revision of Federal reimbursement of emergency health care services furnished to illegal aliens.

1       (c) DEFINITIONS.—For purposes of this Act, the  
 2 definitions contained in subsections (a) and (b) of section  
 3 101 of the Immigration and Nationality Act (8 U.S.C.  
 4 1101) shall apply.

# **TITLE I—OPTIMIZING VISA ENTRY RULES**

## **3 SEC. 101. WORLDWIDE LEVELS OF IMMIGRATION.**

4       Beginning with fiscal year 2009, notwithstanding sec-  
5 tion 201 of the Immigration and Nationality Act (8 U.S.C.  
6 1151)—

7           (1) the worldwide level of family-sponsored im-  
8 migrants under subsection (c) of such section in any  
9 fiscal year shall be zero;

10          (2) the worldwide level of employment-based  
11 immigrants under subsection (d) of such section in  
12 any fiscal year shall be 5,200; and

13          (3) the worldwide level of diversity immigrants  
14 under subsection (e) of such section in any fiscal  
15 year shall be zero.

## **16 SEC. 102. ALLOTMENT OF VISAS.**

17       (a) IN GENERAL.—Beginning with fiscal year 2008,  
18 notwithstanding section 203 of the Immigration and Na-  
19 tionality Act (8 U.S.C. 1153)—

20           (1) the number of visas that shall be allotted to  
21 family-sponsored immigrants under subsection (a) of  
22 such section in any fiscal year shall be zero;

23           (2) the number of visas that shall be allotted to  
24 priority workers under subsection (b)(1) of such sec-  
25 tion (and to spouses and children of such workers

1       under subsection (d) of such section) in any fiscal  
2       year shall not exceed 5,000, the number of visas  
3       that shall be allotted in any fiscal year to priority  
4       workers under subsection (b)(5) of such section (and  
5       to spouses and children of such workers under sub-  
6       section (d) of such section) in any fiscal year shall  
7       not exceed 200, and the number of visas that shall  
8       be allotted to other aliens subject to the worldwide  
9       level for employment-based immigrants in any fiscal  
10      year shall be zero;

11           (3) the number of visas that shall be allotted to  
12      special immigrants under subsection (b)(4) of such  
13      section (and to spouses and children of such workers  
14      under subsection (d) of such section) in any fiscal  
15      year shall not exceed 1,000; and

16           (4) the number of visas that shall be allotted to  
17      diversity immigrants under subsection (c) of such  
18      section in any fiscal year shall be zero.

19   Nothing in this title shall be construed as imposing any  
20   numerical limitation on special immigrants described in  
21   subparagraph (A) or (B) of section 101(a)(27) of such Act  
22   (8 U.S.C. 1101(a)(27)) who may be provided immigrant  
23   visas (or who otherwise may acquire the status of an alien  
24   lawfully admitted for permanent residence).

1       (b) LIMITATION ON SPONSORSHIP BY CERTAIN  
2 ALIENS.—Notwithstanding any other provision of law, ef-  
3 fective October 1, 2008, no visa may be allotted to any  
4 immigrant on the basis of a petition by an individual who  
5 has filed an application under section 210 or section 245A  
6 of the Immigration and Nationality Act (8 U.S.C. 1160,  
7 1255a).

8       (c) ELIMINATION OF PREFERENCE CATEGORIES.—  
9 Effective October 1, 2008, no classification petition may  
10 be filed or approved, and no alien may be issued an immi-  
11 gration visa number, for the following preference cat-  
12 egories:

13           (1) FAMILY PREFERENCE.—Preference under  
14 section 203(a).

15           (2) EMPLOYMENT-BASED PREFERENCE.—Pref-  
16 erence under section 203(b), other than as an alien  
17 described in subparagraph (A) or (B) of section  
18 203(b)(1) or under section 203(b)(5), or under sec-  
19 tion 203(d) as the spouse or minor child of either  
20 such an alien.

21           (3) DIVERSITY.—Preference under section  
22 203(c).

23       (d) LIMITATION ON GRANTING IMMIGRANT STA-  
24 TUS.—Effective October 1, 2008, the Secretary of Home-  
25 land Security may not accept or approve any petition for

1 classification under section 204 of the Immigration and  
2 Nationality Act (8 U.S.C. 1154) except for classification  
3 by reason of a family relationship described in section  
4 201(b)(2) of such Act (8 U.S.C. 1151(b)(2)) or priority  
5 worker or investor status under paragraph (1)(A), (1)(B),  
6 or (5) of subsection (b) of section 203 of such Act (8  
7 U.S.C. 1153), or as a spouse or child of such a worker  
8 or investor under subsection (d) of such section, or as an  
9 alien described in section 201(b)(1)(B) or 201(b)(1)(C) of  
10 such Act.

11 **SEC. 103. HUMANITARIAN IMMIGRATION.**

12 (a) ANNUAL LIMITATION OF 50,000.—Notwith-  
13 standing any other provision of law, subject to subsection  
14 (b), beginning with fiscal year 2008, the sum of the fol-  
15 lowing shall not exceed 50,000:

16 (1) The number of refugees who are admitted  
17 under section 207 of the Immigration and Nation-  
18 ality Act (8 U.S.C. 1157) in a fiscal year.

19 (2) The number of admissions made available  
20 in such fiscal year to adjust to the status of perma-  
21 nent residence the status of aliens granted asylum  
22 under section 209(b) of such Act (8 U.S.C.  
23 1159(b)).

24 (3) The number of aliens whose status is ad-  
25 justed in such fiscal year under section 646 of the

1 Immigration Reform and Immigrant Responsibility  
2 Act of 1996 (division C of Public Law 104–208), re-  
3 lating to Polish and Hungarian parolees.

4 (4) The number of aliens whose status is ad-  
5 justed in such fiscal year under section 599E of the  
6 Foreign Operations, Export Financing, and Related  
7 Programs Appropriations Act, 1990 (relating to So-  
8 viet and Indochinese parolees).

9 (5) The number of other aliens whose removal  
10 is cancelled (and whose status is adjusted) in such  
11 fiscal year under section 240A of such Act (8 U.S.C.  
12 1229b).

13 (6) The number of aliens who are provided law-  
14 ful permanent resident status in such fiscal year on  
15 the basis of a private bill passed by Congress.

16 (b) EXCEPTION.—In applying subsection (a), aliens  
17 who are spouses or children of citizens of the United  
18 States, or who are admitted under the limitations de-  
19 scribed in section 102, shall not be counted.

20 **SEC. 104. SUNSETTING ADJUSTMENTS UNDER VARIOUS**  
21 **PROVISIONS.**

22 (a) SUNSET FOR IRCA-RELATED AND CERTAIN  
23 OTHER AMNESTIES.—An alien may not be issued an im-  
24 migrant visa or otherwise acquire the status of an alien  
25 lawfully admitted for permanent residence under any of



1 the following provisions, unless the alien has filed an appli-  
2 cation for such visa or status on or before the date of the  
3 enactment of this Act:

4 (1) Section 245A of the Immigration and Na-  
5 tionality Act (8 U.S.C. 1255a), commonly known as  
6 the IRCA legalization program.

7 (2) Section 210 of such Act (8 U.S.C. 1160),  
8 commonly known as the agricultural worker amnesty  
9 program.

10 (3) Section 249 of such Act (8 U.S.C. 1259),  
11 commonly known as registry.

12 (4) Section 584 of the Foreign Operations, Ex-  
13 port Financing, and Related Programs Appropria-  
14 tions Act, 1988, relating to Amerasian immigration.

15 (b) SUNSET FOR HRIFA AND NACARA AMNES-  
16 TIES.—An alien may not be issued an immigrant visa and  
17 may not otherwise acquire the status of an alien lawfully  
18 admitted for permanent residence under any of the fol-  
19 lowing provisions, unless the alien has filed an application  
20 for such visa or status on or before the date of the enact-  
21 ment of this Act:

22 (1) Section 202 of the Nicaraguan Adjustment  
23 and Central American Relief Act of 1997 (title II of  
24 Public Law 105–100).

1           (2) The Haitian Refugee and Immigration  
2       Fairness Act of 1998 (division A of section 101(h)  
3       of Public Law 105–277).

4       (c) IMMEDIATE REPEAL OF CUBAN-HAITIAN AD-  
5 JUSTMENT.—An alien may not be issued an immigrant  
6 visa and may not otherwise acquire the status of an alien  
7 lawfully admitted for permanent residence under section  
8 202 of the Immigration Reform and Control Act of 1986,  
9 unless the alien has filed an application for such visa or  
10 status on or before the date of the enactment of this Act:

11       (d) IMMEDIATE REPEAL OF LAUTENBERG-MORRISON  
12 PROVISIONS.—Effective on the date of the enactment of  
13 this Act, section 599D of the Foreign Operations, Export  
14 Financing, and Related Programs Appropriations Act,  
15 1990 (Public Law 101–167) is repealed.

16 **SEC. 105. REQUIREMENT FOR CONGRESSIONAL APPROVAL**  
17 **FOR EXTENSION OF DESIGNATION OF FOR-**  
18 **EIGN STATES FOR PURPOSES OF TEMPORARY**  
19 **PROTECTED STATUS.**

20       Effective on October 1, 2008, the period of designa-  
21 tion of a foreign state under section 244(b) of the Immi-  
22 gration and Nationality Act (8 U.S.C. 1254(b)) may not  
23 be extended beyond the initial designation period without  
24 the approval of both Houses of Congress.

1 **SEC. 106. ESTABLISHMENT OF NEW NONIMMIGRANT CLAS-**  
2 **SIFICATIONS; CONVERSION OF CERTAIN EX-**  
3 **ISTING IMMIGRANT CLASSIFICATION PETI-**  
4 **TIONS.**

5 (a) ESTABLISHMENT OF NONIMMIGRANT CLASSI-  
6 FICATIONS.—Effective October 1, 2008, the Secretary of  
7 Homeland Security shall establish the following new non-  
8 immigrant classifications (under section 101(a)(15) of the  
9 Immigration and Nationality Act (8 U.S.C. 1101(a)(15)):

10 (1) SPOUSES AND MINOR CHILDREN OF LAW-  
11 FUL PERMANENT RESIDENTS.—

12 (A) IN GENERAL.—A nonimmigrant classi-  
13 fication for an alien who is the spouse or child  
14 of an alien lawfully admitted for permanent res-  
15 idence.

16 (B) PERIOD OF VALIDITY OF NON-  
17 IMMIGRANT VISA.—A visa issued for non-  
18 immigrant classification under this paragraph  
19 shall be valid for a period of 3 years. Such visa  
20 may be renewed indefinitely so long as the prin-  
21 cipal alien is residing in the United States and  
22 the nonimmigrant alien remains the spouse or  
23 child of such alien.

24 (C) SUBSEQUENT ADJUSTMENT TO LAW-  
25 FUL PERMANENT RESIDENT STATUS AS IMME-  
26 DIATE RELATIVES UPON NATURALIZATION OF

1           PRINCIPAL ALIEN.—If the principal alien de-  
2           scribed in subparagraph (A) becomes a natural-  
3           ized citizen of the United States, the alien may  
4           apply for permanent resident status of such  
5           spouse and child as an immediate relative under  
6           section 201(b)(2)(A) of the Immigration and  
7           Nationality Act (8 U.S.C. 1151(b)(2)(A)) and,  
8           for purposes of making such determination, the  
9           age of the child shall be the age of such child  
10          as of the date of approval of the nonimmigrant  
11          status under subparagraph (A).

12          (2) PARENTS OF ADULT UNITED STATES CITI-  
13          ZENS.—

14                (A) IN GENERAL.—A nonimmigrant classi-  
15                fication for an alien who is the parent of a cit-  
16                izen of the United States if the citizen is at  
17                least 21 years of age.

18                (B) PERIOD OF VALIDITY OF NON-  
19                IMMIGRANT VISA.—A visa issued for non-  
20                immigrant classification under this subpara-  
21                graph shall be valid for a period of 5 years.  
22                Such visa may be renewed indefinitely so long  
23                as the citizen son or daughter is residing in the  
24                United States.

1                   (C) LIMITATIONS ON EMPLOYMENT AND  
2                   PUBLIC BENEFITS AND SUPPORT BY PETI-  
3                   TIONING CITIZEN SON OR DAUGHTER.—An  
4                   alien provided nonimmigrant status under this  
5                   paragraph is not authorized to be employed in  
6                   the United States and is not entitled, notwith-  
7                   standing any other provision of law, to any ben-  
8                   efits funded by the Federal Government or any  
9                   State. In the case of such an alien, the peti-  
10                  tioning United States citizen son or daughter  
11                  shall be responsible for the support of the alien  
12                  in the United States, regardless of the re-  
13                  sources of such alien.

14               (b) CONVERSION OF CURRENT CLASSIFICATION PE-  
15               TITIONS.—

16               (1) FAMILY SECOND PREFERENCE CONVER-  
17               SIONS.—In the case of a classification petition under  
18               section 204(a) of the Immigration and Nationality  
19               Act (8 U.S.C. 1154(a)) for preference status de-  
20               scribed in section 203(a)(2)(A) of such Act (8  
21               U.S.C. 1153(a)(2)(A)) for an alien that has been  
22               filed before October 1, 2008, as of such date such  
23               petition shall be deemed to be a petition for classi-  
24               fication of the alien involved as a nonimmigrant

1 under the classification established under subsection  
2 (a)(1).

3 (2) IMMEDIATE RELATIVE PETITIONS FOR PAR-  
4 ENTS.—In the case of a classification petition under  
5 section 204(a) of the Immigration and Nationality  
6 Act (8 U.S.C. 1154(a)) for immediate relative status  
7 under section 201(b)(2)(A) of such Act (8 U.S.C.  
8 1151(b)(2)(A)) as the parent of a United States cit-  
9 izen that has been filed before October 1, 2008, as  
10 of such date such petition shall be deemed to be a  
11 petition for classification of the alien involved as a  
12 nonimmigrant under the classification established  
13 under subsection (a)(2).

14 **TITLE II—MISCELLANEOUS**  
15 **PROVISIONS**

16 **SEC. 201. LIMITATION ON AUTOMATIC BIRTHRIGHT CITI-**  
17 **ZENSHIP.**

18 Notwithstanding any other provision of law, with re-  
19 spect to an individual born after the date of the enactment  
20 of this Act, the individual shall not be a national or citizen  
21 of the United States at birth under section 301 of the  
22 Immigration and Nationality Act (8 U.S.C. 1401) unless  
23 at least one of the individual's parents is, at the time of  
24 birth, a citizen or national of the United States or an alien  
25 lawfully admitted for permanent residence.

1 **SEC. 202. REQUIREMENT FOR IMMIGRANTS TO PROVIDE**  
2 **AFFIDAVIT OF ALLEGIANCE TO THE UNITED**  
3 **STATES.**

4 (a) IN GENERAL.—Notwithstanding any other provi-  
5 sion of law, no alien shall be provided an immigrant visa  
6 or otherwise provided status as an alien lawfully admitted  
7 to the United States for permanent residence unless the  
8 alien has executed an affidavit of allegiance to the United  
9 States that is in a form approved by the Secretary of  
10 Homeland Security.

11 (b) EFFECTIVE DATE.—Subsection (a) shall take ef-  
12 fect on and after such date, not later than 60 days after  
13 the date of the enactment of this Act, as the Secretary  
14 of Homeland Security specifies after having approved the  
15 form for the affidavit under such subsection.

16 **SEC. 203. REQUIREMENT OF AFFIDAVIT OF SUPPORT FOR**  
17 **EMPLOYMENT-BASED IMMIGRANTS.**

18 (a) IN GENERAL.—Notwithstanding any other provi-  
19 sion of law, no alien shall be provided an immigrant visa  
20 or otherwise provided status as an alien lawfully admitted  
21 to the United States for permanent residence as an em-  
22 ployment-based immigrant under section 203(b) of the  
23 Immigration and Nationality Act (8 U.S.C. 1153(b)) un-  
24 less there has been executed an affidavit of support that  
25 meets the requirements of section 213A of such Act (8  
26 U.S.C. 1183a) and the alien has executed an affidavit of

1 allegiance to the United States that is in a form approved  
2 by the Secretary of Homeland Security.

3 (b) EFFECTIVE DATE.—Subsection (a) shall apply to  
4 visas and lawful permanent residence status provided after  
5 the date of the enactment of this Act.

6 **SEC. 204. MAKING VOTING IN FOREIGN ELECTION A BASIS**  
7 **FOR AUTOMATIC LOSS OF CITIZENSHIP.**

8 (a) IN GENERAL.—Section 349(a) of the Immigra-  
9 tion and Nationality Act (8 U.S.C. 1481(a)) is amended—

10 (1) by striking the period at the end of para-  
11 graph (7) and inserting “; or”; and

12 (2) by adding at the end the following new  
13 paragraph:

14 “(8) voting in an election in a foreign coun-  
15 try.”.

16 (b) EFFECTIVE DATE.—The amendments made by  
17 subsection (a) shall apply to voting that occurs after the  
18 date of the enactment of this Act.

19 **SEC. 205. TREATING ILLEGAL PRESENCE IN THE UNITED**  
20 **STATES AS NOT DEMONSTRATING GOOD**  
21 **MORAL CHARACTER.**

22 (a) IN GENERAL.—Section 101(f) of the Immigration  
23 and Nationality Act (8 U.S.C. 1101(f)) is amended—

24 (1) by striking “or” at the end of paragraph  
25 (8);



1           (2) by striking the period at the end of para-  
2       graph (9) and inserting “; or”; and

3           (3) by inserting after paragraph (9) the fol-  
4       lowing new paragraph:

5           “(10) one who—

6                 “(A) at the time good moral character is  
7       required to be demonstrated, is unlawfully  
8       present in the United States without having  
9       been admitted or paroled;

10                “(B) at the time good moral character is  
11       required to be demonstrated, has been inspected  
12       and admitted to the United States but gained  
13       such admission through fraud or misrepresenta-  
14       tion; or

15                “(C) at any time has been unlawfully  
16       present in the United States for an aggregate  
17       period of 181 days or more.”.

18       (b) EFFECTIVE DATE.—The amendments made by  
19       subsection (a) shall apply to determinations of good moral  
20       character made after the date of the enactment of this  
21       Act.

1 **SEC. 206. REQUIREMENT OF DNA TESTING FOR ALIENS**  
2 **SEEKING VISAS BASED ON A BIOLOGICAL RE-**  
3 **LATIONSHIP.**

4 (a) IN GENERAL.—Section 221(d) of the Immigra-  
5 tion and Nationality Act (8 U.S.C. 1201(d)) is amended—

6 (1) by striking “(d)” and inserting “(d)(1)”;

7 and

8 (2) by adding at the end the following new  
9 paragraph:

10 “(2) Prior to the issuance of an immigrant visa to  
11 an alien that is predicated on a biological relationship to  
12 a family member, the consular officer shall require such  
13 alien to submit the results of DNA testing in order to con-  
14 firm that the purported biological relationship is not in-  
15 consistent with the results.”.

16 (b) AUTHORIZATION OF FEES.—The Secretary of  
17 Homeland Security is authorized to adjust the fees col-  
18 lected from aliens described in section 221(d)(2) of the  
19 Immigration and Nationality Act, as added by subsection  
20 (a)(2), in order to carry out such section.

21 (c) TESTING FACILITIES.—The Secretary of Home-  
22 land Security, in consultation with the Secretary of State,  
23 shall promulgate regulations with respect to the facilities  
24 where DNA testing is authorized to be performed, as re-  
25 quired by section 221(d)(2) of the the Immigration and  
26 Nationality Act, as added by subsection (a)(2).

1           **TITLE III—DEMANDING**  
2           **UNIFORM ENFORCEMENT**  
3           **Subtitle A—No Access; No**  
4           **Opportunity**

5   **SEC. 301. SENSE OF CONGRESS ON ROLE OF DEPARTMENT**  
6           **OF DEFENSE.**

7           It is the sense of Congress that the Secretary of De-  
8   fense should, to the maximum extent possible—

9           (1) conduct training in conjunction with the  
10          United States Border Patrol where the Department  
11          of Defense can perform a supporting role; and

12          (2) conduct surveillance to act as a force multi-  
13          plier for the Border Patrol agents.

14   **SEC. 302. USE OF ARMY AND AIR FORCE TO SECURE THE**  
15           **BORDERS.**

16          Section 1385 of title 18, United States Code, is  
17   amended by inserting after “execute the laws” the fol-  
18   lowing: “other than at or near a border of the United  
19   States in order to prevent aliens, terrorists, and drug  
20   smugglers from entering the United States”.

1 **SEC. 303. ASSIGNMENT OF MEMBERS OF THE ARMED**  
2 **FORCES TO ASSIST UNITED STATES CUSTOMS**  
3 **AND BORDER PROTECTION AND UNITED**  
4 **STATES IMMIGRATION AND CUSTOMS EN-**  
5 **FORCEMENT.**

6 (a) ASSIGNMENT AUTHORITY OF SECRETARY OF DE-  
7 FENSE.—Chapter 18 of title 10, United States Code, is  
8 amended by inserting after section 374 the following new  
9 section:

10 **“§ 374a. Assignment of members to assist border pa-**  
11 **trol and control**

12 “(a) ASSIGNMENT AUTHORIZED.—Upon submission  
13 of a request consistent with subsection (b), the Secretary  
14 of Defense may assign members of the Army, Navy, Air  
15 Force, and Marine Corps to assist the Bureau of Customs  
16 and Border Protection and the United States Immigration  
17 and Customs Enforcement of the Department of Home-  
18 land Security—

19 “(1) in preventing the entry of terrorists, drug  
20 traffickers, and illegal aliens into the United States;  
21 and

22 “(2) in the inspection of cargo, vehicles, and  
23 aircraft at points of entry into the United States to  
24 prevent the entry of weapons of mass destruction,  
25 components of weapons of mass destruction, prohib-

1       ited narcotics or drugs, or other terrorist or drug  
2       trafficking items.

3       “(b) REQUEST FOR ASSIGNMENT.—The assignment  
4 of members under subsection (a) may occur only if—

5               “(1) the assignment is at the request of the  
6       Secretary of Homeland Security; and

7               “(2) the request is accompanied by a certifi-  
8       cation by the Secretary of Homeland Security that  
9       the assignment of members pursuant to the request  
10      is necessary to respond to a threat to national secu-  
11      rity posed by the entry into the United States of ter-  
12      rorists, drug traffickers, or illegal aliens.

13      “(c) TRAINING PROGRAM REQUIRED.—The Sec-  
14 retary of Homeland Security and the Secretary of De-  
15 fense, shall establish a training program to ensure that  
16 members receive general instruction regarding issues af-  
17 fecting law enforcement in the border areas in which the  
18 members may perform duties under an assignment under  
19 subsection (a). A member may not be deployed at a border  
20 location pursuant to an assignment under subsection (a)  
21 until the member has successfully completed the training  
22 program.

23      “(d) CONDITIONS OF USE.—(1) Whenever a member  
24 who is assigned under subsection (a) to assist the Bureau  
25 of Customs and Border Protection or the United States

1 Immigration and Customs Enforcement is performing du-  
2 ties pursuant to the assignment, a civilian law enforce-  
3 ment officer from the agency concerned shall accompany  
4 the member.

5 “(2) Nothing in this section shall be construed  
6 to—

7 “(A) authorize a member assigned under  
8 subsection (a) to conduct a search, seizure, or  
9 other similar law enforcement activity or to  
10 make an arrest; and

11 “(B) supersede section 1385 of title 18  
12 (popularly known as the ‘Posse Comitatus  
13 Act’).

14 “(e) ESTABLISHMENT OF ONGOING JOINT TASK  
15 FORCES.—(1) The Secretary of Homeland Security may  
16 establish ongoing joint task forces if the Secretary of  
17 Homeland Security determines that the joint task force,  
18 and the assignment of members to the joint task force,  
19 is necessary to respond to a threat to national security  
20 posed by the entry into the United States of terrorists,  
21 drug traffickers, or illegal aliens.

22 “(2) If established, the joint task force shall  
23 fully comply with the standards as set forth in this  
24 section.

1       “(f) NOTIFICATION REQUIREMENTS.—The Secretary  
 2 of Homeland Security shall provide to the Governor of the  
 3 State in which members are to be deployed pursuant to  
 4 an assignment under subsection (a) and to local govern-  
 5 ments in the deployment area notification of the deploy-  
 6 ment of the members to assist the Department of Home-  
 7 land Security under this section and the types of tasks  
 8 to be performed by the members.

9       “(g) REIMBURSEMENT REQUIREMENT.—Section 377  
 10 of this title shall apply in the case of members assigned  
 11 under subsection (a).”.

12       (b) COMMENCEMENT OF TRAINING PROGRAM.—The  
 13 training program required by subsection (c) of section  
 14 374a of title 10, United States Code, shall be established  
 15 as soon as practicable after the date of the enactment of  
 16 this Act.

17       (c) CLERICAL AMENDMENT.—The table of sections  
 18 at the beginning of such chapter is amended by inserting  
 19 after the item relating to section 374 the following new  
 20 item:

“374a. Assignment of members to assist border patrol and control”.

21 **SEC. 304. CONSTRUCTION OF SECURE FENCE.**

22       (a) IN GENERAL.—The President shall provide for  
 23 construction of the secure fencing authorized under sec-  
 24 tion 102(b) of the Illegal Immigration Reform and Immig-  
 25 grant Responsibility Act of 1996 (8 U.S.C. 1103 note).

1 (b) USE OF COMPETITIVE BIDDING.—In carrying out  
2 subsection (a), the President shall provide for a competi-  
3 tive bidding process under which a company is eligible to  
4 submit a bid if such company is enrolled, before submit-  
5 ting such a bid, in the electronic employment verification  
6 program under section 402 of such Act.

7 **SEC. 305. REPORT BY SANDIA NATIONAL LABORATORIES**  
8 **CONCERNING BORDER SECURITY.**

9 (a) IN GENERAL.—Not later than one year after the  
10 date of the enactment of this Act, the head of Sandia Na-  
11 tional Laboratories shall submit to Congress a report con-  
12 cerning recommendations for the construction, establish-  
13 ment, or implementation of the most effective combination  
14 of manpower and border infrastructure for the entire  
15 international land border of the United States to prevent  
16 all unlawful entries into the United States.

17 (b) ACTION BY CONGRESS.—Not later than 60 days  
18 after submission of the report required under subsection  
19 (a), Congress shall conduct a vote to determine whether  
20 or not to implement the recommendations set out in such  
21 report.

22 **SEC. 306. INCREASE IN FULL-TIME USCBP IMMIGRATION**  
23 **INSPECTORS.**

24 Subject to the availability of appropriations, the Sec-  
25 retary of Homeland Security shall increase by 2,000 above



1 the number funded in fiscal year 2006 the number of full-  
2 time United States Customs and Border Protection immi-  
3 gration inspectors by the end of fiscal year 2008. There  
4 are authorized to be appropriated such sums as may be  
5 necessary for such additional resources for support per-  
6 sonnel and equipment for inspections as may be necessary  
7 to implement such an increase in inspectors.

8 **SEC. 307. INCREASE IN FULL-TIME USICE DETENTION AND**  
9 **REMOVAL OFFICERS.**

10 Subject to the availability of appropriations, the Sec-  
11 retary of Homeland Security shall increase by 2,000 above  
12 the number funded in fiscal year 2006 the number of full-  
13 time United States Immigration and Customs Enforce-  
14 ment detention and removal officers by the end of the fis-  
15 cal year 2008. There are authorized to be appropriated  
16 such sums as may be necessary for additional resources  
17 for support personnel and equipment for detention and re-  
18 movals to implement such increase in personnel.

19 **SEC. 308. FUNCTIONS OF DETENTION AND REMOVAL OFFI-**  
20 **CERS.**

21 Notwithstanding any other provision of law, detention  
22 and removal officers of the Department of Homeland Se-  
23 curity at the GS-9 and GS-11 levels are authorized to  
24 perform interior patrol functions, including locating, de-  
25 taining, and transporting aliens who have overstayed their

1 visas, alien absconders, and aliens apprehended by State  
2 or local authorities.

3 **SEC. 309. INCREASE IN USICE CRIMINAL INVESTIGATORS**  
4 **FOR BENEFITS FRAUD.**

5 Subject to the availability of appropriations, the Sec-  
6 retary of Homeland Security shall increase by 500 above  
7 the number funded in fiscal year 2006 the number of  
8 1811-series criminal investigators to be assigned to the  
9 benefits fraud unit in the United States Immigration and  
10 Customs Enforcement to do benefits and false claims in-  
11 vestigation by the end of fiscal year 2008. There are au-  
12 thorized to be appropriated such sums as may be nec-  
13 essary for related training and support.

14 **SEC. 310. INCREASE IN ATTORNEYS FOR THE USICE LEGAL**  
15 **PROGRAM.**

16 Subject to the availability of appropriations, the Sec-  
17 retary of Homeland Security shall increase by 300 above  
18 the number funded in fiscal year 2006 the number of at-  
19 torneys for the United States Immigration and Customs  
20 Enforcement Legal Program by the end of the fiscal year  
21 2008. There are authorized to be appropriated such sums  
22 as may be necessary for related training and support.

23 **SEC. 311. SUSPENSION OF VISA WAIVER PROGRAM.**

24 (a) SUSPENSION.—Notwithstanding any other provi-  
25 sion of law, the visa waiver program established under sec-

tion 217 of the Immigration and Nationality Act (8 U.S.C. 1187) is suspended until the Secretary of Homeland Security determines and certifies to the Congress that—

(1) the automated entry-exit control system authorized under section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1221 note), as amended, is fully implemented and functional;

(2) all United States ports of entry have functional biometric machine readers; and

(3) all nonimmigrants, including Border Crossing Card holders, are processed through the automated entry-exit system.

(b) REPEAL.—Subparagraph (B) of section 217(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1187(a)(3)) is repealed.

**SEC. 312. CIVIL AND CRIMINAL PENALTIES FOR UNLAWFUL PRESENCE.**

(a) ALIENS UNLAWFULLY PRESENT.—Title II of the Immigration and Nationality Act (8 U.S.C. 1151 et seq.) is amended by inserting after section 275 the following new section:

“CRIMINAL PENALTIES AND FORFEITURE FOR  
UNLAWFUL PRESENCE IN THE UNITED STATES

“SEC. 275A. (a) In addition to any other violation, an alien present in the United States in violation of this

1 Act shall be guilty of a felony and shall be fined under  
 2 title 18, United States Code, imprisoned not less than 1  
 3 year, or both. The assets of any alien present in the  
 4 United States in violation of this Act shall be subject to  
 5 forfeiture under title 18, United States Code.

6 “(b) It shall be an affirmative defense to a violation  
 7 of subsection (a) that the alien overstayed the time allot-  
 8 ted under the visa due to an exceptional and extremely  
 9 unusual hardship or physical illness that prevented the  
 10 alien from leaving the United States by the required  
 11 date.”.

12 (b) INCREASE IN CRIMINAL PENALTIES FOR ILLEGAL  
 13 ENTRY.—Section 275(a) of the Immigration and Nation-  
 14 ality Act (8 U.S.C. 1325(a)) is amended by striking “not  
 15 more than 6 months,” and inserting “not less than 1  
 16 year,”.

17 **SEC. 313. LISTING OF IMMIGRATION VIOLATORS IN THE NA-**  
 18 **TIONAL CRIME INFORMATION CENTER DATA-**  
 19 **BASE.**

20 (a) PROVISION OF INFORMATION TO THE NCIC.—  
 21 Not later than 180 days after the date of the enactment  
 22 of this Act, the Under Secretary for Border and Transpor-  
 23 tation Security of the Department of Homeland Security  
 24 shall provide the National Crime Information Center of  
 25 the Department of Justice with such information as the

1 Director may have on all aliens against whom a final order  
2 of removal has been issued, all aliens who have signed a  
3 voluntary departure agreement, and all aliens who have  
4 overstayed their visa. Such information shall be provided  
5 to the National Crime Information Center regardless of  
6 whether or not the alien received notice of a final order  
7 of removal and even if the alien has already been removed.

8 (b) INCLUSION OF INFORMATION IN THE NCIC  
9 DATABASE.—Section 534(a) of title 28, United States  
10 Code, is amended—

11 (1) in paragraph (3), by striking “and” at the  
12 end;

13 (2) by redesignating paragraph (4) as para-  
14 graph (5); and

15 (3) by inserting after paragraph (3) the fol-  
16 lowing:

17 “(4) acquire, collect, classify, and preserve  
18 records of violations of the immigration laws of the  
19 United States, regardless of whether or not the alien  
20 has received notice of the violation and even if the  
21 alien has already been removed; and”.

22 (c) STATE AND LOCAL LAW ENFORCEMENT PROVI-  
23 SION OF INFORMATION ABOUT APPREHENDED ILLEGAL  
24 ALIENS.—

25 (1) PROVISION OF INFORMATION.—

1           (A) IN GENERAL.—In order to receive  
2 funds under the State Criminal Alien Assist-  
3 ance Program described in section 241(i) of the  
4 Immigration and Nationality Act (8 U.S.C.  
5 1231(i)), States and localities shall provide to  
6 the Department of Homeland Security the in-  
7 formation listed in subsection (b) on each alien  
8 apprehended in the jurisdiction of the State or  
9 locality who is believed to be in violation of an  
10 immigration law of the United States.

11           (B) TIME LIMITATION.—Not later than 10  
12 days after an alien described in paragraph (1)  
13 is apprehended, information required to be pro-  
14 vided under paragraph (1) shall be provided in  
15 such form and in such manner as the Secretary  
16 of Homeland Security may, by regulation or  
17 guideline, require.

18           (2) INFORMATION REQUIRED.—The information  
19 listed in this subsection is as follows:

20           (A) The alien's name.

21           (B) The alien's address or place of resi-  
22 dence.

23           (C) A physical description of the alien.

1 (D) The date, time, and location of the en-  
2 counter with the alien and reason for stopping,  
3 detaining, apprehending, or arresting the alien.

4 (E) If applicable, the alien's driver's li-  
5 cense number and the State of issuance of such  
6 license.

7 (F) If applicable, the type of any other  
8 identification document issued to the alien, any  
9 designation number contained on the identifica-  
10 tion document, and the issuing entity for the  
11 identification document.

12 (G) If applicable, the license plate number,  
13 make, and model of any automobile registered  
14 to, or driven by, the alien.

15 (H) A photo of the alien, if available or  
16 readily obtainable.

17 (I) The alien's fingerprints, if available or  
18 readily obtainable.

19 (3) REIMBURSEMENT.—The Department of  
20 Homeland Security shall reimburse States and local-  
21 ities for all reasonable costs, as determined by the  
22 Secretary of Homeland Security, incurred by that  
23 State or locality as a result of providing information  
24 required by this section.

1           (4) AUTHORIZATION OF APPROPRIATIONS.—

2           There is authorized to be appropriated such sums as  
3           necessary to carry out this Act.

4           (d) FORGERY OF FEDERAL DOCUMENTS.—

5           (1) IN GENERAL.—Chapter 25 of title 18,  
6           United States Code, is amended by adding at the  
7           end the following:

8   **“§ 515. Federal records, documents, and writings,**  
9           **generally**

10          “Any person who—

11               “(1) falsely makes, alters, forges, or counter-  
12               feits any Federal record, Federal document, Federal  
13               writing, or record, document, or writing character-  
14               izing, or purporting to characterize, official Federal  
15               activity, service, contract, obligation, duty, property,  
16               or chose;

17               “(2) utters or publishes as true, or possesses  
18               with intent to utter or publish as true, any record,  
19               document, or writing described in paragraph (1),  
20               knowing, or negligently failing to know, that such  
21               record, document, or writing has not been verified,  
22               has been inconclusively verified, is unable to be  
23               verified, or is false, altered, forged, or counterfeited;

24               “(3) transmits to, or presents at any office, or  
25               to any officer, of the United States, any records,



1 document, or writing described in paragraph (1),  
 2 knowing, or negligently failing to know, that such  
 3 record, document, or writing has not been verified,  
 4 has been inconclusively verified, is unable to be  
 5 verified, or is false, altered, forged, or counterfeited;

6 “(4) attempts, or conspires to commit, any of  
 7 the acts described in paragraphs (1) through (3); or

8 “(5) while outside of the United States, engages  
 9 in any of the acts described in paragraphs (1)  
 10 through (3),

11 shall be fined under this title, imprisoned not more than  
 12 10 years, or both.”.

13 (2) CLERICAL AMENDMENT.—The table of con-  
 14 tents for chapter 25, of title 18, United States Code,  
 15 is amended by inserting after the item relating to  
 16 section 415 the following:

“515. Federal records, documents, and writing, generally”.

17 **SEC. 314. CIVIL AND CRIMINAL PENALTIES FOR DOCUMENT**  
 18 **FRAUD, BENEFIT FRAUD, AND FALSE CLAIMS**  
 19 **OF CITIZENSHIP.**

20 (a) PENALTIES FOR DOCUMENT FRAUD.—Section  
 21 274C(d)(3) of the Immigration and Nationality Act (8  
 22 U.S.C. 1324c(d)(3)) is amended—

23 (1) in subparagraph (A), by striking “\$250 and  
 24 not more than \$2,000” and inserting “\$500 and not  
 25 more than \$4,000”; and

1           (2) in subparagraph (B), by striking “\$2,000  
2           and not more than \$5,000” and inserting “\$4,000  
3           and not more than \$10,000”.

4           (b) FRAUD AND FALSE STATEMENTS.—Chapter 47  
5 of title 18, United States Code, is amended

6           (1) in section 1015, by striking “five years”  
7           and inserting “10 years”; and

8           (2) in section 1028(b)—

9           (A) in paragraph (1), by striking “15  
10          years” and inserting “20 years”;

11          (B) in paragraph (2), by striking “three  
12          years” and inserting “six years”;

13          (C) in paragraph (3), by striking “20  
14          years” and inserting “25 years”; and

15          (D) in paragraph (6), by striking “one  
16          year” and inserting “two years”.

17 **SEC. 315. IDENTIFICATION STANDARD FOR FEDERAL BENE-**  
18 **FITS.**

19          (a) FEDERAL AGENCIES.—No department, agency,  
20 commission, other entity, or employee of the Federal Gov-  
21 ernment may accept, recognize, or rely on (or authorize  
22 the acceptance or recognition of or reliance on) for the  
23 purpose of establishing identity any document except those  
24 described in subsection (c).

1       (b) STATE AND LOCAL AGENCIES.—No department,  
2 agency, commission, other entity, or employee of a State  
3 or local government charged with providing or approving  
4 applications for public benefits or services funded in whole  
5 or in part with Federal funds may accept, recognize, or  
6 rely on (or authorize the acceptance or recognition of or  
7 reliance on) for the purpose of establishing identity any  
8 document except those described in subsection (c).

9       (c) DOCUMENTS DESCRIBED.—Documents described  
10 in this subsection are limited to—

11           (1)(A) Valid, unexpired United States pass-  
12 ports, immigration documents, and other identity  
13 documents issued by a Federal authority.

14           (B) Individual taxpayer identification numbers  
15 issued by the Internal Revenue Service shall not be  
16 considered identity documents for purposes of sub-  
17 paragraph (A).

18           (2) Valid, unexpired identity documents issued  
19 by a State or local authority if—

20           (A) the State or local authority statutorily  
21 bars issuance of such identity documents to  
22 aliens unlawfully present in the United States;  
23 and

24           (B) the State or local authority requires  
25 independent verification of records provided by

1 the applicant in support of the application for  
2 such identity documents.

3 (3) Valid, unexpired foreign passports, if such  
4 passports include or are accompanied by proof of  
5 lawful presence in the United States.

6 **SEC. 316. FINGERPRINTING OF APPLICANTS FOR UNITED**  
7 **STATES PASSPORTS.**

8 Section 1 of title IX of the Act of June 15, 1917  
9 (22 U.S.C. 213) is amended—

10 (1) by inserting “(a)” before “Before a pass-  
11 port”;

12 (2) by adding at the end the following new sub-  
13 section:

14 “(b) No new or replacement United States passport  
15 may be issued to any applicant on or after January 1,  
16 2008, unless—

17 “(1) the applicant has been fingerprinted elec-  
18 tronically; and

19 “(2) the applicant’s fingerprints have been  
20 checked against the National Crime Information  
21 Center database of the Federal Bureau of Investiga-  
22 tion.”.

23 **SEC. 317. VISA TERM COMPLIANCE BONDS.**

24 (a) DEFINITIONS.—For purposes of this section:

1           (1) VISA TERM COMPLIANCE BOND.—The term  
2           “visa term compliance bond” means a written  
3           suretyship undertaking entered into by an alien indi-  
4           vidual seeking admission to the United States on a  
5           nonimmigrant visa whose performance is guaranteed  
6           by a bail agent.

7           (2) SURETYSHIP UNDERTAKING.—The term  
8           “suretyship undertaking” means a written agree-  
9           ment, executed by a bail agent, which binds all par-  
10          ties to its certain terms and conditions and which  
11          provides obligations for the visa applicant while  
12          under the bond and penalties for forfeiture to ensure  
13          the obligations of the principal under the agreement.

14          (3) BAIL AGENT.—The term “bail agent”  
15          means any individual properly licensed, approved,  
16          and appointed by power of attorney to execute or  
17          countersign bail bonds in connection with judicial  
18          proceedings and who receives a premium.

19          (4) SURETY.—The term “surety” means an en-  
20          tity, as defined by, and that is in compliance with,  
21          sections 9304 through 9308 of title 31, United  
22          States Code, that agrees—

23                 (A) to guarantee the performance, where  
24                 appropriate, of the principal under a visa term  
25                 compliance bond;

1 (B) to perform as required in the event of  
2 a forfeiture; and

3 (C) to pay over the principal (penal) sum  
4 of the bond for failure to perform.

5 (5) SECRETARY.—The term “Secretary” means  
6 the Secretary of Homeland Security.

7 (b) ISSUANCE OF BOND.—A consular officer may re-  
8 quire an applicant for a nonimmigrant visa, as a condition  
9 for granting such application, to obtain a visa term com-  
10 pliance bond.

11 (c) VALIDITY, EXPIRATION, RENEWAL, AND CAN-  
12 CELLATION OF BONDS.—

13 (1) VALIDITY.—A visa term compliance bond  
14 undertaking is valid if it—

15 (A) states the full, correct, and proper  
16 name of the alien principal;

17 (B) states the amount of the bond;

18 (C) is guaranteed by a surety and  
19 countersigned by an attorney-in-fact who is  
20 properly appointed;

21 (D) is an original signed document;

22 (E) is filed with the Secretary of Home-  
23 land Security along with the original application  
24 for a visa; and

25 (F) is not executed by electronic means.

1           (2) EXPIRATION.—A visa term compliance bond  
2           undertaking shall expire at the earliest of—

3                   (A) 1 year after the date of issue;

4                   (B) at the expiration, cancellation, or sur-  
5           render of the visa; or

6                   (C) immediately upon nonpayment of the  
7           premium.

8           (3) RENEWAL.—A visa term compliance may be  
9           renewed annually with payment of proper premium  
10          at the option of the bail agent or surety, but only  
11          if there has been no breach of conditions, default,  
12          claim, or forfeiture of the bond.

13          (4) CANCELLATION.—A visa term compliance  
14          bond shall be canceled and the surety and bail agent  
15          exonerated—

16                   (A) for nonrenewal;

17                   (B) if the surety or bail agent provides  
18          reasonable evidence that there was misrepresen-  
19          tation or fraud in the application for the bond;

20                   (C) upon termination of the visa;

21                   (D) upon death, incarceration of the prin-  
22          cipal, or the inability of the surety to produce  
23          the principal for medical reasons;

24                   (E) if the principal is detained in any city,  
25          State, country, or political subdivision thereof;

1 (F) if the principal departs from the  
2 United States for any reason without permis-  
3 sion of the Secretary of Homeland Security and  
4 the surety or bail agent; or

5 (G) if the principal is surrendered by the  
6 surety.

7 (5) EFFECT OF EXPIRATION OR CANCELLA-  
8 TION.—When a visa term compliance bond expires  
9 without being immediately renewed, or is canceled,  
10 the nonimmigrant status of the alien shall be re-  
11 voked immediately.

12 (6) SURRENDER OF PRINCIPAL; FORFEITURE  
13 OF BOND PREMIUM.—

14 (A) SURRENDER.—At any time before a  
15 breach of any of the conditions of a visa term  
16 compliance bond, the surety or bail agent may  
17 surrender the principal, or the principal may  
18 surrender, to any United States Immigration  
19 and Customs Enforcement or United States  
20 Customs and Border Protection office or facil-  
21 ity.

22 (B) FORFEITURE OF BOND PREMIUM.—A  
23 principal may be surrendered without the re-  
24 turn of any bond premium if the visa holder—



1 (i) changes address without notifying  
2 the surety or bail agent and the Secretary  
3 of Homeland Security in writing at least  
4 60 days prior to such change;

5 (ii) changes schools, jobs, or occupa-  
6 tions without written permission of the  
7 surety, bail agent, and the Secretary;

8 (iii) conceals himself or herself;

9 (iv) fails to report to the Secretary as  
10 required at least annually; or

11 (v) violates the contract with the bail  
12 agent or surety, commits any act that may  
13 lead to a breach of the bond, or otherwise  
14 violates any other obligation or condition  
15 of the visa established by the Secretary.

16 (7) CERTIFIED COPY OF UNDERTAKING OR  
17 WARRANT TO ACCOMPANY SURRENDER.—

18 (A) IN GENERAL.—A person desiring to  
19 make a surrender of the visa holder—

20 (i) shall have the right to petition any  
21 Federal court for an arrest warrant for the  
22 arrest of the visa holder;

23 (ii) shall forthwith be provided a cer-  
24 tified copy of the arrest warrant and the  
25 undertaking; and

1 (iii) shall have the right to pursue, ap-  
2 prehend, detain, and deliver the visa hold-  
3 er, together with the certified copy of the  
4 arrest warrant and the undertaking, to any  
5 official or facility of the United States Im-  
6 migration and Customs Enforcement or of  
7 United States Customs and Border Protec-  
8 tion or any detention facility authorized to  
9 hold Federal detainees.

10 (B) EFFECTS OF DELIVERY.—Upon deliv-  
11 ery of a person under subparagraph (A)(iii)—

12 (i) the official to whom the delivery is  
13 made shall detain the visa holder in cus-  
14 tody and issue a written certificate of sur-  
15 render; and

16 (ii) the court issuing the warrant de-  
17 scribed in subparagraph (A)(i) and the  
18 Secretary of Homeland Security shall im-  
19 mediately exonerate the surety and bail  
20 agent from any further liability on the  
21 bond.

22 (8) FORM OF BOND.—A visa term compliance  
23 bond shall in all cases state the following and be se-  
24 cured by a surety:

1 (A) BREACH OF BOND; PROCEDURE; FOR-  
2 FEITURE; NOTICE.—

3 (i) IN GENERAL.—If a visa holder vio-  
4 lates any conditions of the visa or the visa  
5 bond the Secretary shall—

6 (I) order the visa canceled;

7 (II) immediately obtain a war-  
8 rant for the visa holder's arrest;

9 (III) order the bail agent and  
10 surety to take the visa holder into  
11 custody and surrender the visa holder  
12 to the Secretary; and

13 (IV) mail notice to the bail agent  
14 and surety via certified mail return  
15 receipt at each of the addresses in the  
16 bond.

17 (ii) ACCESS.—A bail agent or surety  
18 shall have full and complete access to all  
19 information, electronic or otherwise, in the  
20 care, custody, and control of the United  
21 States Government or any State or local  
22 government or any subsidiary or police  
23 agency thereof regarding the visa holder  
24 needed to comply with [section 213 of the  
25 REAL GUEST Act of 2007] [??] that

1 the court issuing the warrant believes is  
2 crucial in locating the visa holder.

3 (iii) ARREST; DETAINER.—If the visa  
4 holder is later arrested, detained, or other-  
5 wise located outside the United States and  
6 the outlying possessions of the United  
7 States (as defined in section 101(a) of the  
8 Immigration and Nationality Act), the Sec-  
9 retary shall—

10 (I) order that the bail agent and  
11 surety are completely exonerated, and  
12 the bond canceled and terminated;  
13 and

14 (II) if the Secretary has issued  
15 an order under clause (i), the surety  
16 may request, by written, properly filed  
17 motion, reinstatement of the bond.

18 Subclause (II) may not be construed to  
19 prevent the Secretary from revoking or re-  
20 setting a higher bond.

21 (iv) ACTIONS.—If a visa holder vio-  
22 lates any conditions of the visa or the visa  
23 bond the bail agent or surety shall—

24 (I) produce the visa bond holder;  
25 or

1 (II)(aa) prove within 180 days  
2 that producing the bond holder was  
3 prevented—

4 (AA) by the bond holder's  
5 illness or death;

6 (BB) because the bond hold-  
7 er is detained in custody in any  
8 city, State, country, or political  
9 subdivision thereof;

10 (CC) because the bond hold-  
11 er has left the United States or  
12 its outlying possessions (as de-  
13 fined in section 101(a) of the Im-  
14 migration and Nationality Act (8  
15 U.S.C. 1101(a)); or

16 (DD) because required no-  
17 tice was not given to the bail  
18 agent or surety; and

19 (bb) prove within 180 days that  
20 the inability to produce the bond hold-  
21 er was not with the consent or conniv-  
22 ance of the bail agent or sureties.

23 (v) ASSESSMENT OF PENALTY WITHIN  
24 60 DAYS.—If the bail agent or surety does  
25 not comply with the terms of this bond

1 within 60 days after the mailing of the no-  
2 tice required under clause (i)(IV), a por-  
3 tion of the face value of the bond shall be  
4 assessed as a penalty against the surety.

5 (vi) ASSESSMENT OF PENALTY BE-  
6 TWEEN 60 AND 90 DAYS.—If compliance  
7 occurs more than 60 days but no more  
8 than 90 days after the mailing of such no-  
9 tice, the amount assessed shall be one-  
10 third of the face value of the bond.

11 (vii) ASSESSMENT OF PENALTY BE-  
12 TWEEN 90 AND 180 DAYS.—If compliance  
13 occurs more than 90 days, but no more  
14 than 180 days, after the mailing of such  
15 notice, the amount assessed shall be two-  
16 thirds of the face value of the bond.

17 (viii) ASSESSMENT OF PENALTY  
18 GREATER THAN 180 DAYS.—If compliance  
19 does not occur within 180 days after the  
20 mailing of such notice, the amount as-  
21 sessed shall be 100 percent of the face  
22 value of the bond.

23 (ix) PAYMENT TERMS.—All penalty  
24 fees shall be paid by the surety within 45  
25 days after the end of such 180-day period.

1 (B) WAIVER.—The Secretary may waive  
2 the penalty fees or extend the period for pay-  
3 ment or both under subparagraph (A), if—

4 (i) a written request is filed with the  
5 Secretary; and

6 (ii) the bail agent or surety provides  
7 evidence satisfactory to the Secretary that  
8 diligent efforts were made to effect compli-  
9 ance of the visa holder.

10 (C) COMPLIANCE; EXONERATION; LIMITA-  
11 TION OF LIABILITY.—

12 (i) COMPLIANCE.—The bail agent or  
13 surety shall have the absolute right to lo-  
14 cate, apprehend, arrest, detain, and sur-  
15 render any visa holder, wherever the visa  
16 holder may be found, who violates any of  
17 the terms and conditions of the visa or  
18 bond.

19 (ii) EXONERATION.—Upon satisfying  
20 any of the requirements of the bond, the  
21 surety shall be completely exonerated.

22 (iii) LIMITATION OF LIABILITY.—The  
23 total liability on any undertaking shall not  
24 exceed the face amount of the bond.

1 **SEC. 318. RELEASE OF ALIENS IN REMOVAL PROCEEDINGS.**

2 Section 236(a)(2) of the Immigration and Nationality  
3 Act (8 U.S.C. 1226(a)(2)) is amended to read as follows:

4 “(2) subject to section 241(a)(8), may release  
5 the alien on bond of at least \$10,000, with security  
6 approved by, and containing conditions prescribed  
7 by, the Secretary of Homeland Security, but the  
8 Secretary shall not release the alien on or to the  
9 alien’s own recognizance unless an order of an immi-  
10 gration judge expressly finds that the alien is not a  
11 flight risk and is not a threat to the United States;  
12 and”.

13 **SEC. 319. DETENTION OF ALIENS DELIVERED BY BONDS-**  
14 **MEN.**

15 (a) IN GENERAL.—Section 241(a) of the Immigra-  
16 tion and Nationality Act (8 U.S.C. 1231(a)) is amended  
17 by adding at the end the following:

18 “(8) EFFECT OF PRODUCTION OF ALIEN BY  
19 BONDSMAN.—Notwithstanding any other provision  
20 of law, the Secretary of Homeland Security shall  
21 take into custody any alien subject to a final order  
22 of removal, and cancel any bond previously posted  
23 for the alien, if the alien is produced within the pre-  
24 scribed time limit by the obligor on the bond. The  
25 obligor on the bond shall be deemed to have substan-  
26 tially performed all conditions imposed by the terms



1 of the bond, and shall be released from liability on  
 2 the bond, if the alien is produced within such time  
 3 limit.”.

4 (b) EFFECTIVE DATE.—The amendment made by  
 5 subsection (a) shall take effect on the date of the enact-  
 6 ment of this Act and shall apply to all immigration bonds  
 7 posted before, on, or after such date.

8 **SEC. 320. INDEPENDENT VERIFICATION OF BIRTH**  
 9 **RECORDS PROVIDED IN SUPPORT OF APPLI-**  
 10 **CATIONS FOR SOCIAL SECURITY ACCOUNT**  
 11 **NUMBERS.**

12 (a) APPLICATIONS FOR SOCIAL SECURITY ACCOUNT  
 13 NUMBERS.—Section 205(c)(2)(B)(ii) of the Social Secu-  
 14 rity Act (42 U.S.C. 405(c)(2)(B)(ii)) is amended

15 (1) by inserting “(I)” after “(ii)”; and

16 (2) by adding at the end the following new sub-  
 17 clause:

18 “(II) With respect to an application for a social secu-  
 19 rity account number for an individual, other than for pur-  
 20 poses of enumeration at birth, the Commissioner of Social  
 21 Security shall require independent verification of any birth  
 22 record provided by the applicant in support of the applica-  
 23 tion.”.

24 (b) EFFECTIVE DATE.—The amendments made by  
 25 subsection (a) shall apply with respect to applications filed

1 more than 180 days after the date of the enactment of  
2 this Act.

3 **SEC. 321. BIRTH CERTIFICATES.**

4 (a) APPLICABILITY OF MINIMUM STANDARDS TO  
5 LOCAL GOVERNMENTS.—The minimum standards in this  
6 section applicable to birth certificates issued by a State  
7 shall also apply to birth certificates issued by a local gov-  
8 ernment in the State. It shall be the responsibility of the  
9 State to ensure that local governments in the State comply  
10 with the minimum standards.

11 (b) MINIMUM STANDARDS FOR FEDERAL RECOGNI-  
12 TION.—

13 (1) MINIMUM STANDARDS FOR FEDERAL  
14 USE.—

15 (A) IN GENERAL.—Beginning 3 years after  
16 the date of the enactment of this Act, a Federal  
17 agency may not accept, for any official purpose,  
18 a birth certificate issued by a State to any per-  
19 son unless the State is meeting the require-  
20 ments of this section.

21 (B) STATE CERTIFICATIONS.—The Sec-  
22 retary of Homeland Security shall determine  
23 whether a State is meeting the requirements of  
24 this section based on certifications made by the  
25 State to the Secretary. Such certifications shall

1           be made at such times and in such manner as  
2           the Secretary, in consultation with the Sec-  
3           retary of Health and Human Services, may pre-  
4           scribe by regulation.

5           (2) MINIMUM DOCUMENT STANDARDS.—To  
6           meet the requirements of this section, a State shall  
7           include, on each birth certificate issued to a person  
8           by the State, the use of safety paper, the seal of the  
9           issuing custodian of record, and such other features  
10          as the Secretary of Homeland Security may deter-  
11          mine necessary to prevent tampering, counterfeiting,  
12          and otherwise duplicating the birth certificate for  
13          fraudulent purposes. The Secretary may not require  
14          a single design to which birth certificates issued by  
15          all States must conform.

16          (3) MINIMUM ISSUANCE STANDARDS.—

17                (A) IN GENERAL.—To meet the require-  
18                ments of this section, a State shall require and  
19                verify the following information from the re-  
20                questor before issuing an authenticated copy of  
21                a birth certificate:

- 22                       (i) The name on the birth certificate.  
23                       (ii) The date and location of the birth.  
24                       (iii) The mother's maiden name.

1 (iv) Substantial proof of the requestor's identity.  
2

3 (B) ISSUANCE TO PERSONS NOT NAMED  
4 ON BIRTH CERTIFICATE.—To meet the requirements of this section, in the case of a request  
5 by a person who is not named on the birth certificate, a State must require the presentation  
6 of legal authorization to request the birth certificate before issuance.  
7  
8  
9

10 (C) ISSUANCE TO FAMILY MEMBERS.—Not  
11 later than one year after the date of the enactment of this Act, the Secretary of Homeland  
12 Security, in consultation with the Secretary of Health and Human Services and the States,  
13 shall establish minimum standards for issuance  
14 of a birth certificate to specific family members,  
15 their authorized representatives, and others who  
16 demonstrate that the certificate is needed for  
17 the protection of the requestor's personal or  
18 property rights.  
19  
20

21 (D) WAIVERS.—A State may waive the requirements set forth in clauses (i) through (iii)  
22 of subparagraph (A) in exceptional circumstances, such as the incapacitation of the  
23 registrant.  
24  
25

1                   (E) APPLICATIONS BY ELECTRONIC  
2 MEANS.—To meet the requirements of this sec-  
3 tion, for applications by electronic means,  
4 through the mail or by phone or fax, a State  
5 shall employ third party verification, or equiva-  
6 lent verification, of the identity of the re-  
7 questor.

8                   (F) VERIFICATION OF DOCUMENTS.—To  
9 meet the requirements of this section, a State  
10 shall verify the documents used to provide proof  
11 of identity of the requestor.

12           (4) OTHER REQUIREMENTS.—To meet the re-  
13 quirements of this section, a State shall adopt, at a  
14 minimum, the following practices in the issuance  
15 and administration of birth certificates:

16                   (A) Establish and implement minimum  
17 building security standards for State and local  
18 vital record offices.

19                   (B) Restrict public access to birth certifi-  
20 cates and information gathered in the issuance  
21 process to ensure that access is restricted to en-  
22 tities with which the State has a binding pri-  
23 vacy protection agreement.

1           (C) Subject all persons with access to vital  
2 records to appropriate security clearance re-  
3 quirements.

4           (D) Establish fraudulent document rec-  
5 ognition training programs for appropriate em-  
6 ployees engaged in the issuance process.

7           (E) Establish and implement internal oper-  
8 ating system standards for paper and for elec-  
9 tronic systems.

10          (F) Establish a central database that can  
11 provide interoperative data exchange with other  
12 States and with Federal agencies, subject to  
13 privacy restrictions and confirmation of the au-  
14 thority and identity of the requestor.

15          (G) Ensure that birth and death records  
16 are matched in a comprehensive and timely  
17 manner, and that all electronic birth records  
18 and paper birth certificates of decedents are  
19 marked “deceased”.

20          (H) Cooperate with the Secretary of  
21 Homeland Security in the implementation of  
22 electronic verification of vital events under sub-  
23 section (d).

24          (c) ESTABLISHMENT OF ELECTRONIC BIRTH AND  
25 DEATH REGISTRATION SYSTEMS.—In consultation with

1 the Secretary of Health and Human Services and the  
2 Commissioner of Social Security, the Secretary of Home-  
3 land Security shall take the following actions:

4 (1) Work with the States to establish a common  
5 data set and common data exchange protocol for  
6 electronic birth registration systems and death reg-  
7 istration systems.

8 (2) Coordinate requirements for such systems  
9 to align with a national model.

10 (3) Ensure that fraud prevention is built into  
11 the design of electronic vital registration systems in  
12 the collection of vital event data, the issuance of  
13 birth certificates, and the exchange of data among  
14 government agencies.

15 (4) Ensure that electronic systems for issuing  
16 birth certificates, in the form of printed abstracts of  
17 birth records or digitized images, employ a common  
18 format of the certified copy, so that those requiring  
19 such documents can quickly confirm their validity.

20 (5) Establish uniform field requirements for  
21 State birth registries.

22 (6) Not later than 1 year after the date of the  
23 enactment of this Act, establish a process with the  
24 Department of Defense that will result in the shar-  
25 ing of data, with the States and the Social Security

1 Administration, regarding deaths of United States  
2 military personnel and the birth and death of their  
3 dependents.

4 (7) Not later than 1 year after the date of the  
5 enactment of this Act, establish a process with the  
6 Department of State to improve registration, notifi-  
7 cation, and the sharing of data with the States and  
8 the Social Security Administration, regarding births  
9 and deaths of United States citizens abroad.

10 (8) Not later than 3 years after the date of es-  
11 tablishment of databases provided for under this sec-  
12 tion, require States to record and retain electronic  
13 records of pertinent identification information col-  
14 lected from requestors who are not the registrants.

15 (9) Not later than 6 months after the date of  
16 the enactment of this Act, submit to Congress a re-  
17 port on whether there is a need for Federal laws to  
18 address penalties for fraud and misuse of vital  
19 records and whether violations are sufficiently en-  
20 forced.

21 (d) ELECTRONIC VERIFICATION OF VITAL  
22 EVENTS.—

23 (1) LEAD AGENCY.—The Secretary of Home-  
24 land Security shall lead the implementation of elec-  
25 tronic verification of a person's birth and death.



1           (2) REGULATIONS.—In carrying out paragraph  
2           (1), the Secretary shall issue regulations to establish  
3           a means by which authorized Federal and State  
4           agency users with a single interface will be able to  
5           generate an electronic query to any participating  
6           vital records jurisdiction throughout the United  
7           States to verify the contents of a paper birth certifi-  
8           cate. Pursuant to the regulations, an electronic re-  
9           sponse from the participating vital records jurisdic-  
10          tion as to whether there is a birth record in their  
11          database that matches the paper birth certificate will  
12          be returned to the user, along with an indication if  
13          the matching birth record has been flagged “de-  
14          ceased”. The regulations shall take effect not later  
15          than 5 years after the date of the enactment of this  
16          Act.

17       (e) GRANTS TO STATES.—

18           (1) IN GENERAL.—The Secretary of Homeland  
19          Security may make grants to States to assist the  
20          States in conforming to the minimum standards set  
21          forth in this section.

22           (2) AUTHORIZATION OF APPROPRIATIONS.—  
23          There are authorized to be appropriated to the Sec-  
24          retary of Homeland Security for each of the fiscal

1 years 2008 through 2011 such sums as may be nec-  
2 essary to carry out this section.

3 (f) AUTHORITY.—

4 (1) PARTICIPATION WITH FEDERAL AGENCIES  
5 AND 25 STATES.—All authority to issue regulations,  
6 certify standards, and issue grants under this sec-  
7 tion shall be carried out by the Secretary of Home-  
8 land Security, with the concurrence of the Secretary  
9 of Health and Human Services and in consultation  
10 with State vital statistics offices and appropriate  
11 Federal agencies.

12 (2) EXTENSIONS OF DEADLINES.—The Sec-  
13 retary of Homeland Security may grant to a State  
14 an extension of time to meet the requirements of  
15 subsection (b)(1)(A) if the State provides adequate  
16 justification for noncompliance.

17 (g) REPEAL.—Section 7211 of the Intelligence Re-  
18 form and Terrorism Prevention Act of 2004 (Public Law  
19 108–458) is repealed.

20 **SEC. 322. MAXIMUM PERIOD OF VALIDITY FOR STATE LI-**  
21 **CENSES AND IDENTIFICATION DOCUMENTS.**

22 Section 202(d)(10) of the REAL ID Act of 2005 (di-  
23 vision B of Public Law 109–13) is amended by striking  
24 “8 years” and inserting “5 years”.

1 **SEC. 323. NO PREEMPTION OF CERTAIN STATE AND LOCAL**  
2 **LAWS REGARDING EMPLOYMENT ELIGI-**  
3 **BILITY VERIFICATION REQUIREMENTS.**

4 (a) IN GENERAL.—Paragraph (2) of section 274A(h)  
5 of the Immigration and Nationality Act (8 U.S.C.  
6 1324a(h)) is amended to read as follows:

7 “(2) NO PREEMPTION.—The provisions of this  
8 section shall not preempt any State or local law that  
9 imposes—

10 “(A) employment eligibility verification re-  
11 quirements imposed upon employers or employ-  
12 ees consistent with or in addition to the employ-  
13 ment eligibility verification requirements under  
14 this section;

15 “(B) civil or criminal penalties for violation  
16 of such State or local employment eligibility  
17 verification requirements;

18 “(C) civil or criminal penalties for acts  
19 prohibited in this section;

20 “(D) licensing sanctions for violation of  
21 such State or local employment eligibility  
22 verification requirements;

23 “(E) licensing sanctions for acts prohibited  
24 in this section; or

25 “(F) limitations on the right of a private  
26 party to sue for up to treble damages.”.

1 (b) EFFECTIVE DATE.—The amendment made by  
2 subsection (a) shall take effect on the date of the enact-  
3 ment of this Act and shall apply as of such date to all  
4 applicable State or local laws that were enacted before,  
5 on, or after such date.

6 **Subtitle B—Reversing Unlawful**  
7 **Migration**

8 **SEC. 331. MANDATORY EMPLOYMENT AUTHORIZATION**  
9 **VERIFICATION.**

10 (a) RENAMING OF BASIC PILOT PROGRAM.—The  
11 basic pilot program established under section 403(a) of  
12 the Illegal Immigration Reform and Immigrant Responsi-  
13 bility Act of 1996 (division C of Public Law 104–208; 8  
14 U.S.C. 1324a note) is hereby renamed the “Employment  
15 Authorization Status Instant Check” or “EASI Check”  
16 system.

17 (b) PERMANENT OPERATION OF THE PROGRAM.—  
18 The EASI Check system shall continue in operation per-  
19 manently and shall not terminate.

20 (c) MANDATORY USE OF EASI CHECK SYSTEM.—

21 (1) IN GENERAL.—Subject to paragraphs (2)  
22 and (3), every person or other entity that hires one  
23 or more individuals for employment in the United  
24 States shall verify through the EASI Check system

1       that each such individual is authorized to work in  
2       the United States.

3               (2) SELECT ENTITIES REQUIRED TO USE EASI  
4       CHECK SYSTEM IMMEDIATELY.—The following enti-  
5       ties shall satisfy the requirement in paragraph (1)  
6       by not later than one year after the date of the en-  
7       actment of this Act:

8               (A) FEDERAL AGENCIES.—Each depart-  
9       ment and agency of the Federal Government;

10              (B) FEDERAL CONTRACTORS.—A con-  
11       tractor that—

12                      (i) has entered into a contract with  
13                      the Federal Government to which section  
14                      2(b)(1) of the Service Contract Act of  
15                      1965 (41 U.S.C. 351(b)(1)) applies, and  
16                      any subcontractor under such contract; or

17                      (ii) has entered into a contract ex-  
18                      empted from the application of such Act by  
19                      section 6 of such Act (41 U.S.C. 356), and  
20                      any subcontractor under such contract.

21              (C) LARGER EMPLOYERS IN CERTAIN IN-  
22       DUSTRIES.—An employer that employs more  
23       than 50 individuals in the United States in any  
24       of the following industries, as defined by the  
25       Secretary of Labor:

- 1 (i) Agriculture.
- 2 (ii) Meat packing.
- 3 (iii) Construction.
- 4 (iv) Leisure and hospitality.

5 (3) PHASING-IN FOR OTHER EMPLOYERS.—

6 (A) TWO YEARS FOR EMPLOYERS OF 20 OR  
7 MORE.—Entities that employ 20 or more indi-  
8 viduals in the United States in any industry  
9 shall satisfy the requirement in paragraph (1)  
10 by not later than two years after the date of the  
11 enactment of this Act.

12 (B) THREE YEARS FOR ALL EMPLOY-  
13 ERS.—All entities that employ one or more indi-  
14 viduals in the United States shall satisfy the re-  
15 quirement in paragraph (1) by not later than  
16 three years after the date of the enactment of  
17 this Act.

18 (4) VERIFYING EMPLOYMENT AUTHORIZATION  
19 OF CURRENT EMPLOYEES.—Every person or other  
20 entity that employs one or more persons in the  
21 United States shall verify through the EASI Check  
22 system by no later than four years after the date of  
23 the enactment of this Act that each employee is au-  
24 thorized to work in the United States.

1           (5) DEFENSE.—An employer who establishes  
2           that the employer complied in good faith with the re-  
3           quirements in paragraphs (1) and (4) shall not be  
4           liable for hiring an unauthorized alien, if—

5                   (A) such hiring occurred due to an error in  
6                   the EASI Check system that was unknown to  
7                   the employer at the time of such hiring; and

8                   (B) the employer terminates the employ-  
9                   ment of the alien upon being informed of the  
10                  error.

11          (6) SANCTIONS FOR NONCOMPLIANCE.—The  
12          failure of an employer to comply with the require-  
13          ments in paragraph (1) or (4) shall—

14                   (A) be treated as a violation of section  
15                   274A(a)(1)(B) of the Immigration and Nation-  
16                   ality Act (8 U.S.C. 1324a(a)(1)(B)) with re-  
17                   spect to each individual whose employment au-  
18                   thorization status was not verified; and

19                   (B) create a rebuttable presumption that  
20                   the employer has violated section 274A(a)(1)(A)  
21                   of such Act.

22          (7) VOLUNTARY PARTICIPATION OF EMPLOYERS  
23          NOT IMMEDIATELY SUBJECT TO REQUIREMENT.—  
24          Nothing in this subsection shall be construed as pre-  
25          venting a person or other entity that is not imme-

1 diately subject to the requirement of paragraph (1)  
 2 pursuant to paragraph (2) or (3) from voluntarily  
 3 using the EASI Check system to verify the employ-  
 4 ment authorization of new hires, current employees,  
 5 or both.

6 (d) AUTHORIZATION OF APPROPRIATIONS.—There  
 7 are authorized to be appropriated such sums as may be  
 8 required to carry out this section.

9 **SEC. 332. EMPLOYER SANCTIONS.**

10 (a) INCREASE IN PENALTY FOR VIOLATIONS.—Sub-  
 11 section 274A(e)(4) of the Immigration and Nationality  
 12 Act (8 U.S.C. 1324a(e)(4)) is amended—

13 (1) in subparagraph (A)(i), by striking “not  
 14 less than \$250 and not more than \$2,000” and in-  
 15 serting “\$5,000”;

16 (2) in subparagraph (A)(ii), by striking “not  
 17 less than \$2,000 and not more than \$5,000” and in-  
 18 serting “\$10,000”;

19 (3) in subparagraph (A)(iii), by striking “not  
 20 less than \$3,000 and not more than \$10,000” and  
 21 inserting “\$25,000”; and

22 (4) in subparagraph (B), by striking clause (i)  
 23 and redesignating clause (ii) as clause (i).

24 (b) ENFORCEMENT THROUGH LIMITATION ON H  
 25 NONIMMIGRANT PETITIONS.—Subsection 274A(e) of such



1 Act (8 U.S.C. 1324a(e)) is further amended by adding at  
2 the end the following:

3 “(10) LIMITATION ON H NONIMMIGRANT PETI-  
4 TIONS.—Any person or entity found in violation of  
5 subsection (a)(1)(A) or (a)(2) shall be ineligible for  
6 a period of 5 years following the first offense, and  
7 permanently following the second offense, to petition  
8 for a nonimmigrant described in section  
9 101(a)(15)(H).”.

10 (c) INCREASE IN CRIMINAL PENALTY.—Section  
11 274A(f)(1) of such Act (8 U.S.C. 1324a(f)(1)) is amended  
12 to read as follows:

13 “(1) CRIMINAL PENALTY.—Any person or enti-  
14 ty which engages in a pattern or practice of viola-  
15 tions of subsection (a)(1)(A) or (a)(2) shall be fined  
16 not more than \$25,000 for each unauthorized alien  
17 with respect to whom such a violation occurs, im-  
18 prisoned for not less than one year, or both, notwith-  
19 standing the provisions of any other Federal law re-  
20 lating to fine levels.”.

21 **SEC. 333. LIMITED DURATION SOCIAL SECURITY ACCOUNT**  
22 **NUMBERS FOR NONIMMIGRANTS.**

23 (a) TEMPORARY SOCIAL SECURITY CARDS FOR NON-  
24 IMMIGRANTS.—Section 205(c)(2)(G) of the Social Secu-  
25 rity Act (42 U.S.C. 405(c)(2)(G)) is amended by inserting

1 after the first sentence the following: “Social security  
2 cards issued to aliens who are not lawful permanent resi-  
3 dents, but who are authorized to engage in employment  
4 in the United States, shall bear on their face an expiration  
5 date that coincides with the expiration of the alien’s per-  
6 mission to be employed in the United States. The social  
7 security account numbers on such cards shall not be valid  
8 to prove work authorization, either through the EASI  
9 Check system or otherwise, following their expiration.”.

10 (b) TIMING OF ISSUANCE TO ALIENS.—Subclause (I)  
11 of section 205(c)(2)(B)(i) of the Social Security Act (42  
12 U.S.C. 405(c)(2)(B)(i)(I)) is amended to read as follows:

13 “(I) to aliens at the time of their lawful admis-  
14 sion to the United States for or adjustment of status  
15 to—

16 “(aa) permanent residence; or

17 “(bb) temporary or other short-term resi-  
18 dence in a category that permits them to en-  
19 gage in employment in the United States, ex-  
20 cept that these aliens shall be issued the social  
21 security cards described in the second sentence  
22 of subparagraph (G);”.

1 **SEC. 334. MANDATORY NOTIFICATION OF SOCIAL SECURITY**  
2 **ACCOUNT NUMBER MISMATCHES AND MUL-**  
3 **TIPLE USES.**

4 (a) NOTIFICATION OF MISMATCHED NAME AND SO-  
5 CIAL SECURITY ACCOUNT NUMBER.—The Commissioner  
6 of Social Security shall notify on an annual basis each  
7 United States employer with one or more employees whose  
8 social security account number does not match the em-  
9 ployee's name or date of birth in the Commissioner's  
10 records. Such notification shall instruct employers to no-  
11 tify listed employees that they have 10 business days to  
12 correct the mismatch with the Social Security Administra-  
13 tion or the employer will be required to terminate their  
14 employment. The notification also shall inform employers  
15 that they may not terminate listed employees prior to the  
16 close of the 10-day period.

17 (b) NOTIFICATION OF MULTIPLE USES OF INDIV-  
18 VIDUAL SOCIAL SECURITY ACCOUNT NUMBERS.—Prior to  
19 crediting any individual with concurrent earnings from  
20 more than one employer, the Commissioner of Social Secu-  
21 rity shall notify the individual that earnings from two or  
22 more employers are being reported under the individual's  
23 social security account number. Such notice shall include,  
24 at a minimum, the name and location of each employer  
25 and shall direct the individual to contact the Social Secu-  
26 rity Administration to present proof that the individual

1 is the person to whom the social security account number  
 2 was issued and, if applicable, to present a pay stub or  
 3 other documentation showing that such individual is em-  
 4 ployed by both or all employers reporting earnings to that  
 5 social security account number.

6 **SEC. 335. NO SOCIAL SECURITY CREDIT FOR WORK PER-**  
 7 **FORMED WHILE UNLAWFULLY PRESENT.**

8 Sections 214(c)(1) and 223(a)(1)(C)(i) of the Social  
 9 Security Act (42 U.S.C. 414(c)(1), 423(a)(1)(C)(i)), as  
 10 added by section 211 of the Social Security Protection Act  
 11 of 2004 (Public Law 108–203), are each amended by  
 12 striking “at the time of assignment, or at any later time”  
 13 and inserting “at the time any such quarters of coverage  
 14 are earned”.

15 **SEC. 336. REDUCING INDIVIDUAL TAXPAYER IDENTIFICA-**  
 16 **TION NUMBER ABUSE.**

17 (a) MODIFIED IT IN FORMAT AND LAWFUL PRES-  
 18 ENCE REQUIREMENT.—

19 (1) IN GENERAL.—Section 6109(c) of the Inter-  
 20 nal Revenue Code of 1986 is amended to read as fol-  
 21 lows:

22 “(c) REQUIREMENT OF INFORMATION.—

23 “(1) IN GENERAL.—For purposes of this sec-  
 24 tion, the Secretary is authorized to require such in-

1       formation as may be necessary to assign an identi-  
2       fying number of any person.

3               “(2) SEPARATE FROM SOCIAL SECURITY AC-  
4       COUNT NUMBERS.—Any identifying number assigned  
5       by the Secretary shall be comprised of a sequence of  
6       numerals and dashes that is visually distinguishable  
7       from and will not be mistaken for a social security  
8       account number.

9               “(3) VERIFICATION OF STATUS FOR ALIENS.—  
10       Prior to issuing any identifying number, the Sec-  
11       retary shall verify with the Department of Homeland  
12       Security that the applicant for such number is law-  
13       fully present in the United States.”.

14               (2) EFFECTIVE DATE.—Section 6109(c)(2) of  
15       the Internal Revenue Code of 1986, as amended by  
16       paragraph (1), shall take effect not later than 30  
17       days after the date of the enactment of this Act.

18       (b) INFORMATION SHARING.—

19               (1) IN GENERAL.—Section 6103(i)(3) of the In-  
20       ternal Revenue Code of 1986 is amended by adding  
21       at the end the following new subparagraph:

22               “(D) POSSIBLE VIOLATIONS OF FEDERAL  
23       IMMIGRATION LAW.—The Secretary shall dis-  
24       close in electronic format to the Secretary of  
25       Homeland Security the taxpayer identity (as de-

1            fined in subsection (b)(6)) of each taxpayer who  
2            has been assigned an individual taxpayer identi-  
3            fication number. The Secretary of Homeland  
4            Security may disclose such information to offi-  
5            cers and employees of the Department to the  
6            extent necessary to enforce Federal immigration  
7            laws.”

8            (2) EFFECTIVE DATE.—The Secretary of the  
9            Treasury shall disclose information under the  
10          amendment made by paragraph (1) not later than  
11          60 days after the date of the enactment of this Act.

12    **SEC. 337. LIMITED ELIGIBILITY FOR TAX CREDITS AND RE-**  
13                            **FUNDS.**

14          Notwithstanding any other provision of law, an indi-  
15          vidual who submits to the Internal Revenue Service an in-  
16          come tax return that relies on an individual taxpayer iden-  
17          tification number in lieu of a social security account num-  
18          ber shall not be eligible for any tax credit or refund, in-  
19          cluding the earned income tax credit under section 32 of  
20          the Internal Revenue Code of 1986.

21    **SEC. 338. PENALTY FOR FAILURE TO FILE CORRECT INFOR-**  
22                            **MATION RETURNS.**

23          (a) MOST EGREGIOUS NONCOMPLIANT EMPLOY-  
24          ERS.—Section 6721 of the Internal Revenue Code is  
25          amended—

1 (1) by striking subsections (b), (c), and (d);

2 (2) by redesignating subsection (e) as sub-  
3 section (b); and

4 (3) by adding at the end the following new sub-  
5 section:

6 “(c) PENALTY FOR EGREGIOUS NONCOMPLIANCE  
7 EMPLOYERS.—The Secretary shall assess the maximum  
8 allowable penalties on each employer designated in any  
9 taxable year by the Social Security Administration as one  
10 of the most egregious non-compliant employers.”.

11 (b) STANDARD COMPLIANCE PROGRAM.—

12 (1) IN GENERAL.—No later than 60 days after  
13 the date of the enactment of this Act, the Secretary  
14 of the Treasury, in consultation with the Commis-  
15 sioner of Social Security and the Secretary of Home-  
16 land Security, shall implement a regularly scheduled  
17 program for proposing, assessing, and collecting pen-  
18 alties from the filers of incorrect information returns  
19 under the Internal Revenue Code of 1986.

20 (2) REPORT.—The Secretary of the Treasury  
21 shall report to Congress not later than 180 days  
22 after the date of the enactment of this Act on the  
23 results of the program required in paragraph (1).  
24 Such report shall include at least the following:

1 (A) The total number of filers who sub-  
2 mitted incorrect information returns.

3 (B) The number of incorrect information  
4 returns submitted by such filers.

5 (C) The total amount of penalties pro-  
6 posed, assessed and collected through the pro-  
7 gram.

8 (D) The number of waivers granted to fil-  
9 ers of incorrect information returns.

10 **SEC. 339. ADJUSTMENT OF STATUS.**

11 Section 245 of the Immigration and Nationality Act  
12 (8 U.S.C. 1255) is amended—

13 (1) by striking subsections (a) through (i) and  
14 subsection (k);

15 (2) by redesignating subsection (j) as sub-  
16 section (b);

17 (3) in subsection (l)—

18 (A) in paragraph (1), by striking “, in the  
19 opinion of the Attorney General,”;

20 (B) in paragraph (1)(C)(ii), by striking “,  
21 or” and inserting “, and”;

22 (C) in paragraph (4), by striking “may  
23 waive” and all that follows and inserting “may  
24 waive the application of paragraphs (1) and (4)  
25 of section 212(a)”;



1 (D) in paragraph (5), by inserting before  
2 the period at the end the following: “and the  
3 Secretary of State shall reduce by one the num-  
4 ber of visas authorized to be issued under sec-  
5 tions 201(e) and 203(c) for the fiscal year then  
6 current”; and

7 (E) by redesignating subsection (l) as sub-  
8 section (c);  
9 (4) in subsection (m)—

10 (A) by amending paragraph (1)(B) to read  
11 as follows:

12 “(B) the alien would suffer extreme hard-  
13 ship if removed from the United States.”;

14 (B) in paragraph (4), by inserting before  
15 the period at the end the following: “and the  
16 Secretary of State shall reduce by one the num-  
17 ber of visas authorized to be issued under sec-  
18 tions 201(c) and 203(a)(4) for the fiscal year  
19 then current”; and

20 (C) by redesignating subsection (m) as  
21 subsection (d);

22 (5) by striking “Attorney General” each place  
23 it appears and inserting “Secretary of Homeland Se-  
24 curity”; and

1 (6) by inserting before subsection (b) (as so re-  
 2 designated) the following:

3 “(a) IN GENERAL.—The Secretary of Homeland Se-  
 4 curity may not adjust the status of any alien to that of  
 5 an alien lawfully admitted for permanent residence except  
 6 as authorized by subsections (b), (c), and (d) of this sec-  
 7 tion and by section 209.”.

8 **SEC. 340. REVOCATION OF TEMPORARY STATUS.**

9 (a) TERMINATION OF ASYLUM.—Section 208(c)(2) of  
 10 the Immigration and Nationality Act (8 U.S.C.  
 11 1158(c)(2)) is amended by striking “may be terminated  
 12 if the Attorney General” and inserting “shall be termi-  
 13 nated if the Secretary of Homeland Security”.

14 (b) ALIENS ELIGIBLE FOR TEMPORARY PROTECTED  
 15 STATUS.—Section 244(c) of such Act (8 U.S.C. 1254a(c))  
 16 is amended—

17 (1) in paragraph (3)(B)—

18 (A) by striking “except as provided in  
 19 paragraph (4) and permitted in subsection  
 20 (f)(3),”; and

21 (B) by inserting before the comma at the  
 22 end the following: “, except where a brief trip  
 23 abroad is required by emergency and is author-  
 24 ized prior to the alien’s travel by the Secretary  
 25 of Homeland Security or is due to extenuating

1 circumstances outside the control of the alien”;  
2 and

3 (2) by striking paragraph (4) and redesignating  
4 paragraphs (5) and (6) as paragraphs (4) and (5),  
5 respectively.

6 (c) BENEFITS AND STATUS DURING PERIOD OF  
7 TEMPORARY PROTECTED STATUS.—Section 244(f) of  
8 such Act (8 U.S.C. 1254a(f)) is amended—

9 (1) by adding “and” at the end of paragraph  
10 (2);

11 (2) by striking paragraph (3); and

12 (3) by redesignating paragraph (4) as para-  
13 graph (3).

14 **SEC. 341. REPEAL OF AMNESTY PROVISION.**

15 (a) IN GENERAL.—Section 249 of the Immigration  
16 and Nationality Act (8 U.S.C. 1259) is repealed.

17 (b) CLERICAL AMENDMENT.—The table of contents  
18 for the Immigration and Nationality Act is amended by  
19 striking the item relating to section 249.

20 **SEC. 342. PENALTIES FOR VIOLATIONS OF FEDERAL IMMI-  
21 GRATION LAWS BY STATES AND LOCALITIES.**

22 (a) PREFERENTIAL TREATMENT OF ALIENS NOT  
23 LAWFULLY PRESENT FOR HIGHER EDUCATION BENE-  
24 FITS.—Section 505 of the Illegal Immigration Reform and

1 Immigrant Responsibility Act of 1996 (Pub. Law 104–  
2 208) is amended—

3           (1) in subsection (a), by inserting “or gradua-  
4       tion from a high school in the United States” after  
5       “on the basis of residence”; and

6           (2) by adding at the end the following:

7       “(c) ANNUAL REPORT.—The Attorney General shall  
8       report annually to Congress on which, if any, post-sec-  
9       ondary educational institutions are providing benefits in  
10      contravention of this section.

11      “(d) LIMITATION ON FEDERAL FINANCIAL ASSIST-  
12      ANCE.—No Federal agency shall provide any grant, reim-  
13      bursement, or other financial assistance to any post-sec-  
14      ondary educational institution determined under sub-  
15      section (c) to be providing benefits in contravention of this  
16      section. Any funds withheld under this subsection shall be  
17      reallocated among qualifying educational institutions that  
18      are in compliance with subsection (a).”.

19      (b) NON-COOPERATION BY STATES AND LOCAL-  
20      ITIES.—Section 241(i) of the Immigration and Nationality  
21      Act (8 U.S.C. 1231(i)) is amended by adding at the end  
22      the following:

23           “(7) Prior to entering into a contractual ar-  
24      rangement with a State or political subdivision  
25      under paragraph (1), the Attorney General shall de-

1        termine whether such State or political subdivision  
2        of a State has in place any formal or informal policy  
3        that violates section 642 of the Illegal Immigration  
4        Reform and Immigrant Responsibility Act of 1996  
5        (8 U.S.C. 1373). The Attorney General shall not  
6        enter into a contractual arrangement with, or allo-  
7        cate any of the funds made available under this sec-  
8        tion to, any State or political subdivision of a State  
9        with a policy that violates such section.”.

10 **SEC. 343. CLARIFICATION OF INHERENT AUTHORITY OF**  
11 **STATE AND LOCAL LAW ENFORCEMENT.**

12        Notwithstanding any other provision of law and re-  
13        affirming the existing inherent authority of States, law en-  
14        forcement personnel of a State or a political subdivision  
15        of a State have the inherent authority of a sovereign entity  
16        to apprehend, arrest, detain, or transfer to Federal cus-  
17        tody aliens in the United States (including the transpor-  
18        tation of such aliens across State lines to detention cen-  
19        ters), in the enforcement of the immigration laws of the  
20        United States. This State authority has never been dis-  
21        placed or preempted by Congress.

1 **SEC. 344. USICE RESPONSE TO REQUESTS FOR ASSISTANCE**  
2 **FROM STATE AND LOCAL LAW ENFORCE-**  
3 **MENT.**

4 (a) IN GENERAL.—Title II of the Immigration and  
5 Nationality Act (8 U.S.C. 1151 et seq.) is amended by  
6 inserting after section 240C the following new section:

7 “CUSTODY OF ILLEGAL ALIENS

8 “SEC. 240D. (a) If the chief executive officer of a  
9 State (or, if appropriate, a political subdivision of the  
10 State) exercising authority with respect to the apprehen-  
11 sion of an illegal alien submits a request to the Secretary  
12 of Homeland Security that the alien be taken into Federal  
13 custody, the Secretary of Homeland Security—

14 “(1) shall—

15 “(A) not later than 48 hours after the con-  
16 clusion of the State charging process or dis-  
17 missal process, or if no State charging or dis-  
18 missal process is required, not later than 48  
19 hours after the illegal alien is apprehended,  
20 take the illegal alien into the custody of the  
21 Federal Government and incarcerate the alien;  
22 or

23 “(B) request that the relevant State or  
24 local law enforcement agency temporarily incar-  
25 cerate or transport the illegal alien for transfer  
26 to Federal custody; and

1           “(2) shall designate a Federal, State, or local  
2       prison or jail or a private contracted prison or deten-  
3       tion facility within each State as the central facility  
4       for that State to transfer custody of the criminal or  
5       illegal aliens to the Department of Homeland Secu-  
6       rity.

7       “(b) The Department of Homeland Security shall re-  
8       imburse States and localities for all reasonable expenses,  
9       as determined by the Secretary of Homeland Security, in-  
10      curred by a State or locality in the incarceration and  
11      transportation of an illegal alien as described in subpara-  
12      graphs (A) and (B) of subsection (a)(1). Compensation  
13      provided for costs incurred under such subparagraphs  
14      shall be the average cost of incarceration of a prisoner  
15      in the relevant State, as determined by the chief executive  
16      officer of a State (or, as appropriate, a political subdivi-  
17      sion of the State) plus the cost of transporting the crimi-  
18      nal or illegal alien from the point of apprehension, to the  
19      place of detention, and to the custody transfer point if  
20      the place of detention and place of custody are different.

21      “(c) The Secretary of Homeland Security shall en-  
22      sure that illegal aliens incarcerated in Federal facilities  
23      pursuant to this section are held in facilities which provide  
24      an appropriate level of security.

1       “(d)(1) In carrying out this section, the Secretary of  
2 Homeland Security may establish a regular circuit and  
3 schedule for the prompt transfer of apprehended illegal  
4 aliens from the custody of States and political subdivisions  
5 of States to Federal custody.

6       “(2) The Secretary of Homeland Security may enter  
7 into contracts with appropriate State and local law en-  
8 forcement and detention officials to implement this sec-  
9 tion.

10       “(e) For purposes of this section, the term ‘illegal  
11 alien’ means an alien who—

12               “(1) entered the United States without inspec-  
13 tion or at any time or place other than that des-  
14 ignated by the Secretary of Homeland Security;

15               “(2) was admitted as a nonimmigrant and who,  
16 at the time the alien was taken into custody by the  
17 State or a political subdivision of the State, had  
18 failed to—

19                       “(A) maintain the nonimmigrant status in  
20 which the alien was admitted or to which it was  
21 changed under section 248; or

22                       “(B) comply with the conditions of any  
23 such status;



1 “(3) was admitted as an immigrant and has  
2 subsequently failed to comply with the requirements  
3 of that status; or

4 “(4) failed to depart the United States under a  
5 voluntary departure agreement or under a final  
6 order of removal.”.

7 (b) AUTHORIZATION OF APPROPRIATIONS FOR THE  
8 DETENTION AND TRANSPORTATION TO FEDERAL CUS-  
9 TODY OF ALIENS NOT LAWFULLY PRESENT.—There is  
10 authorized to be appropriated \$500,000,000 for the deten-  
11 tion and removal of aliens not lawfully present in the  
12 United States under the Immigration and Nationality Act  
13 (8 U.S.C. 1101 et seq.) for fiscal year 2008 and each sub-  
14 sequent fiscal year.

15 **SEC. 345. BASIC IMMIGRATION ENFORCEMENT TRAINING**  
16 **FOR STATE, LOCAL, AND TRIBAL LAW EN-**  
17 **FORCEMENT OFFICERS.**

18 (a) DEMONSTRATION PROJECT.—

19 (1) IN GENERAL.—Cameron University, located  
20 in Lawton, Oklahoma, shall establish and implement  
21 a demonstration project (in this section referred to  
22 as the “demonstration project”) to assess the feasi-  
23 bility of establishing a nationwide e-learning training  
24 course, covering basic immigration law enforcement  
25 issues, to be used by State, local, and tribal law en-

1 enforcement officers in order to improve and enhance  
2 their ability, during their routine course of duties, to  
3 assist Federal immigration officers in the enforce-  
4 ment of Federal immigration laws.

5 (2) PROJECT DIRECTOR RESPONSIBILITIES.—

6 The Project Director charged with establishing and  
7 implementing the demonstration project shall do the  
8 following:

9 (A) The Project Director shall develop an  
10 on-line, e-learning website to provide State,  
11 local, and tribal law enforcement officers access  
12 to the e-learning training course. Such website  
13 shall—

14 (i) have the capability to enroll offi-  
15 cers in the e-learning training course,  
16 record officers' performance on the course,  
17 and track officers' proficiency in learning  
18 the course's concepts;

19 (ii) ensure a high level of security;  
20 and

21 (iii) encrypt personal and sensitive in-  
22 formation.

23 (B) The Project Director shall develop an  
24 e-learning training course, which entails no  
25 more than four hours of training, is accessible

1 through the on-line, e-learning website under  
2 subparagraph (A), and covers both the basic  
3 principles and practices of immigration law and  
4 the policies that relate to the enforcement of  
5 immigration laws. The e-learning training  
6 course shall—

7 (i) include, but not be limited to, in-  
8 struction about employment-based and  
9 family-based immigration, the various  
10 types of nonimmigrant visas, the dif-  
11 ferences between immigrant and non-  
12 immigrant status, the differences between  
13 lawful and unlawful presence, the criminal  
14 and civil consequences of unlawful pres-  
15 ence, the various grounds for removal, the  
16 types of false identification that illegal and  
17 criminal aliens commonly use, the common  
18 methods of alien smuggling and groups  
19 that commonly participate in alien smug-  
20 gling rings, the inherent legal authority of  
21 local law enforcement officers to enforce  
22 federal immigration laws, and detention  
23 and removal procedures, including expedi-  
24 tious removal; and

1 (ii) incorporate content similar to that  
2 covered in the four-hour training course  
3 the Immigration and Naturalization Serv-  
4 ice provided to all Alabama State Troopers  
5 in 2003 (in addition to, and separate from,  
6 the training given pursuant to the State's  
7 section 287(g) agreement).

8 (C) The Project Director shall assess the  
9 feasibility of expanding to State, local, and trib-  
10 al law enforcement agencies throughout the  
11 United States the on-line, e-learning website,  
12 including the e-learning training course, by  
13 using on-line technology.

14 (b) PERIOD OF PROJECT.—The Project Director  
15 shall carry out the demonstration project for a one-year  
16 period beginning 90 days after the date of the enactment  
17 of this Act.

18 (c) LOCATION OF PROJECT.—

19 (1) STATES COVERED.—The Project Director  
20 shall carry out the demonstration project by enroll-  
21 ing in the e-learning training course State, local, and  
22 tribal law enforcement officers from Alabama, Colo-  
23 rado, Florida, Oklahoma, and Texas, and from at  
24 least one, but not more than three, other additional  
25 States.

1           (2) NUMBER OF OFFICERS.—A total of 100,000  
2           officers shall have access to, enroll in, and complete  
3           the e-learning training course provided under the  
4           demonstration project.

5           (3) APPORTIONMENT.—The number of officers  
6           who are selected to participate in the demonstration  
7           project shall be apportioned according to the State  
8           populations of the participating States.

9           (4) SELECTION.—Participation in the dem-  
10          onstration project shall—

11                   (A) be equally apportioned between State,  
12                   county, and municipal law enforcement agency  
13                   officers;

14                   (B) include, when practicable, a significant  
15                   subset of tribal law enforcement officers; and

16                   (C) include officers from urban, rural, and  
17                   highly rural areas.

18          (5) LIMITATION ON PARTICIPATION.—Officers  
19          shall be ineligible to participate in the demonstration  
20          project if they are employed by a State, local, or  
21          tribal law enforcement agency that has in effect a  
22          statute, policy, or practice that prohibits its law en-  
23          forcement officers from cooperating with Federal im-  
24          migration enforcement agents (or if the State, local,  
25          or tribal law enforcement agency is otherwise in con-

1       travention of section 642(a) of the Illegal Immigra-  
2       tion Reform and Immigrant Responsibility Act of  
3       1996 (8 U.S.C. 1373(a)).

4       (d) DEMONSTRATION PROJECT REQUIREMENTS.—

5       (1) The e-learning training course provided under the  
6       demonstration project shall be accessible through the se-  
7       cure, encrypted on-line, e-learning website, within 90 days  
8       of the date of the enactment of this Act, and recruitment  
9       of participants shall begin immediately, and occur concur-  
10      rently, with the e-learning training course's establishment  
11      and implementation.

12      (2) The law enforcement officers selected to partici-  
13      pate in the e-learning training course provided under the  
14      demonstration project shall undergo standard vetting pro-  
15      cedures, pursuant to the Federal Law Enforcement Train-  
16      ing Center Distributed Learning Program, to ensure that  
17      each individual is a bona fide law enforcement officer.

18      (3) The law enforcement officers selected to partici-  
19      pate in the e-learning training course provided under the  
20      demonstration project shall be granted continuous access,  
21      throughout the demonstration project's one-year period, to  
22      on-line course material and to other training and reference  
23      resources accessible through the on-line, e-learning  
24      website.

25      (e) REPORT.—

1           (1) IN GENERAL.—Not later than the end of  
2           the one-year period described in subsection (b), the  
3           Project Director shall transmit to the Committees on  
4           the Judiciary and on Homeland Security of the  
5           House of Representatives and the Committees on  
6           the Judiciary and Homeland Security and Govern-  
7           mental Affairs of the Senate a report about the e-  
8           learning training course completed by State, local,  
9           and tribal law enforcement officers through the dem-  
10          onstration project.

11          (2) MATTERS TO BE INCLUDED.—The report  
12          under paragraph (1) shall include the following:

13                (A) An estimate of the cost savings real-  
14                ized by offering training through the e-learning  
15                training course as opposed to offering similar  
16                training through the residential classroom  
17                method.

18                (B) An estimate of the difference between  
19                the 100,000 law enforcement officers who re-  
20                ceived training through the e-learning training  
21                course and the number of law enforcement offi-  
22                cers who could have received training through  
23                the residential classroom method in the same  
24                one-year period.

1           (C) The effectiveness of the e-learning  
2           training course with respect to student-officer  
3           performance.

4           (D) The convenience accorded to student-  
5           officers with respect to their ability to access  
6           the e-learning training course at their own con-  
7           venience and to return to the on-line, e-learning  
8           website for refresher training and reference.

9           (E) The ability of the on-line, e-learning  
10          website to safeguard the student officers' pri-  
11          vate and personal information while providing  
12          supervisors with appropriate information about  
13          student performance and course completion.

14       (f) EXPANSION OF PROGRAM.—

15           (1) IN GENERAL.—Following the completion of  
16          the demonstration project, the Department of Home-  
17          land Security shall continue to make available the  
18          on-line, e-learning website and the e-learning train-  
19          ing course, enroll in the e-learning training course  
20          100,000 new State, local, and tribal law enforcement  
21          officers annually, and consult with Congress regard-  
22          ing the addition, substitution, or removal of partici-  
23          pating States.

24           (2) LIMITATION ON PARTICIPATION.—Officers  
25          shall be ineligible to participate in the expansion of



1       this program if they are employed by a State, local,  
2       or tribal law enforcement agency that has in effect  
3       a statute, policy, or practice that prohibits its law  
4       enforcement officers from cooperating with Federal  
5       immigration enforcement agents (or if the State,  
6       local, or tribal law enforcement agency is otherwise  
7       in contravention of section 642(a) of the Illegal Im-  
8       migration Reform and Immigrant Responsibility Act  
9       of 1996 (8 U.S.C. 1373(a)).

10       (g) AUTHORIZATION OF APPROPRIATIONS.—There  
11       are authorized to be appropriated \$3,000,000 in fiscal  
12       year 2008 to carry out this section. Funds appropriated  
13       under this subsection shall remain available until ex-  
14       pended. There are authorized to be appropriated in each  
15       subsequent fiscal year such sums as are necessary to con-  
16       tinue to operate, promote, and recruit participants for the  
17       demonstration project and expansion program under this  
18       section.

19       **SEC. 346. COMPLETION OF EXIT COMPONENT OF US-VISIT**  
20                               **ENTRY AND EXIT DATA SYSTEM.**

21       Not later than two years after the date of the enact-  
22       ment of this Act, the Secretary of Homeland Security shall  
23       complete the exit component of the entry and exit data  
24       system, (as defined in section 7208(b) of the Intelligence  
25       Reform and Terrorism Prevention Act of 2004, 8 U.S.C.

1 1365b(b), Public Law 108-458), commonly referred to as  
 2 “US-VISIT”, including at all land, sea, and air ports of  
 3 entry and with respect to nationals from every country.

4 **SEC. 347. CLARIFICATION THAT WAGES PAID TO UNAU-**  
 5 **THORIZED ALIENS MAY NOT BE DEDUCTED**  
 6 **FROM GROSS INCOME.**

7 (a) IN GENERAL.—Subsection (c) of section 162 of  
 8 the Internal Revenue Code of 1986 (relating to illegal  
 9 bribes, kickbacks, and other payments) is amended by  
 10 adding at the end the following new paragraph:

11 “(4) WAGES PAID TO OR ON BEHALF OF UNAU-  
 12 THORIZED ALIENS.—

13 “(A) IN GENERAL.—No deduction shall be  
 14 allowed under subsection (a) for any wage paid  
 15 to or on behalf of an unauthorized alien, as de-  
 16 fined under section 274A(h)(3) of the Immigra-  
 17 tion and Nationality Act (8 U.S.C.  
 18 1324a(h)(3)).

19 “(B) WAGES.—For the purposes of this  
 20 paragraph, the term ‘wages’ means all remu-  
 21 nation for employment, including the cash  
 22 value of all remuneration (including benefits)  
 23 paid in any medium other than cash.

24 “(C) SAFE HARBOR.—If a person or other  
 25 entity is participating in the basic pilot program

described in section 403 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note) and obtains confirmation of identity and employment eligibility in compliance with the terms and conditions of the program with respect to the hiring (or recruitment or referral) of an employee, subparagraph (A) shall not apply with respect to wages paid to such employee.”.

(b) 6-YEAR LIMITATION ON ASSESSMENT AND COLLECTION.—Subsection (c) of section 6501 of such Code (relating to exceptions) is amended by adding at the end the following new paragraph:

“(10) DEDUCTION CLAIMED FOR WAGES PAID TO UNAUTHORIZED ALIENS.—In the case of a return of tax on which a deduction is shown in violation of section 162(c)(4), any tax under chapter 1 may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time within 6 years after the return was filed.”.

(c) USE OF DOCUMENTATION FOR ENFORCEMENT PURPOSES.—Section 274A of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 is amended—

1           (1) in subparagraph (b)(5), by inserting “, sec-  
2       tion 162(c)(4) of the Internal Revenue Code of  
3       1986,” after “enforcement of this chapter”;

4           (2) in subparagraph (d)(2)(F), by inserting “,  
5       section 162(c)(4) of the Internal Revenue Code of  
6       1986,” after “enforcement of this chapter”; and

7           (3) in subparagraph (d)(2)(G), by inserting  
8       “section 162(c)(4) of the Internal Revenue Code of  
9       1986 or” after “or enforcement of”.

10       (d) AVAILABILITY OF INFORMATION.—The Commis-  
11   sioner of Social Security shall make available to the Com-  
12   missioner of Internal Revenue any information related to  
13   the investigation and enforcement of section 162(c)(4) of  
14   the Internal Revenue Code of 1986, including any no-  
15   match letter and any information in the suspense earnings  
16   file.

17       (e) EFFECTIVE DATE.—

18           (1) Except as provided in paragraph (2), this  
19       Act and the amendments made by this Act shall  
20       take effect on the date of the enactment of this Act.

21           (2) The amendments made by subsections (a)  
22       and (b) shall apply to taxable years beginning after  
23       December 31, 2007.

1 **TITLE IV—REVISION OF FED-**  
 2 **ERAL REIMBURSEMENT OF**  
 3 **EMERGENCY HEALTH CARE**  
 4 **SERVICES FURNISHED TO IL-**  
 5 **LEGAL ALIENS**

6 **SEC. 401. REVISION OF FEDERAL REIMBURSEMENT OF**  
 7 **EMERGENCY HEALTH CARE SERVICES FUR-**  
 8 **NISHED TO ILLEGAL ALIENS.**

9 (a) ELIMINATION OF FUNDING LIMITATIONS; EX-  
 10 TENSION OF APPROPRIATIONS THROUGH FISCAL YEAR  
 11 2011.—Subsection (a) of section 1011 of the Medicare  
 12 Prescription Drug, Improvement, and Modernization Act  
 13 of 2003 (Public Law 108–173) is amended—[NOTE: if  
 14 you strike paragraph (1) and not paragraph (2), then you  
 15 have two funding instructions for FY 08; isn’t your policy  
 16 to eliminate all funding for health care services to illegals?  
 17 Perhaps you should strike all of subsection (a); if you leave  
 18 paragraph (2), you will continue the funding through FY  
 19 13.]

20 (1) by striking “for each of fiscal years 2005  
 21 through 2008” and inserting “for each of fiscal  
 22 years 2005 through 2007”; and

23 (2) by adding at the end the following: “Out of  
 24 any funds in the Treasury not otherwise appro-  
 25 priated, there are appropriated to the Secretary for

1 each of fiscal years 2008 through 2013 such sums  
2 as may be necessary for the purpose of payments to  
3 eligible providers.”.

4 (b) ELIMINATION OF STATE ALLOTMENTS.—Such  
5 section is further amended—

6 (1) in subsection (b), by adding at the end the  
7 following new paragraph:

8 “(3) LIMITATION TO FISCAL YEAR 2007.—The  
9 preceding provisions of this subsection shall only  
10 apply to fiscal year 2007.”;

11 (2) by amending subsection (c)(1) to read as  
12 follows:

13 “(1) AUTHORITY TO MAKE PAYMENTS.—The  
14 Secretary shall pay directly to eligible providers lo-  
15 cated in a State for the provision of eligible services  
16 to aliens described in paragraph (5) the amount de-  
17 scribed in paragraph (2) to the extent that the eligi-  
18 ble provider was not otherwise reimbursed (through  
19 insurance or otherwise) for such services.”;

20 (3) in subsection (c)(2)(B), by striking “If the  
21 amount” and inserting “For fiscal year 2007, if the  
22 amount”; and

23 (4) in subsection (c)(4), by striking “in a State  
24 from allotments made under subsection (b) for a fis-  
25 cal year”.

1       (c) REQUIREMENT FOR PROVISION OF INFORMATION  
2 FOR HOSPITAL QUALIFICATIONS FOR FUNDING.—Sub-  
3 section (c) of such section is amended by adding at the  
4 end the following new paragraph:

5               “(6) REQUIREMENT FOR PAYMENT.—Be-  
6               ginning with fiscal year 2008, payment shall  
7               not be made under this section to an eligible  
8               provider with respect to services furnished to an  
9               alien described in paragraph (5) unless the pro-  
10              vider obtains the citizenship information about  
11              the alien, and transmits such information and  
12              all other non-clinical information concerning the  
13              alien to Immigration and Customs Enforce-  
14              ment, not later than 72 hours after the time of  
15              discharge of the alien from the provider.”.

16       (d) ELIMINATION OF COVERAGE OF MEXICANS WITH  
17 BORDER CROSSING CARDS.—Subsection (c)(5) of such  
18 section is amended by striking subparagraph (C).

19       (e) EFFECTIVE DATE.—The amendments made by  
20 this section shall apply beginning with fiscal year 2008.

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